

STATE OF MAINE
SUPREME JUDICIAL COURT

DOCKET NO. OJ-17-1

IN THE MATTER OF
REQUEST FOR OPINION OF THE JUSTICES

Before the Justices of the Supreme Judicial Court
On Referral from the Maine State Senate

**BRIEF OF
MAINE HOUSE REPUBLICAN CAUCUS
AND
MAINE HERITAGE POLICY CENTER**

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STATEMENT OF INTEREST

Pursuant to the Procedural Order issued by the Court on February 7, 2017, the seventy-one Republican members of the House of Representatives (“Republican Caucus”)¹ and the Maine Heritage Policy Center (“MHPC”) submit this brief to explain why ranked choice voting violates the Maine Constitution. The interest of the Republican Caucus – and the reason why the questions submitted to the Court present a solemn occasion pursuant to Me. Const. art. 6, § 3 – lies in the need to adhere to the Constitution when fulfilling the members’ duty to determine the winners of legislative and gubernatorial races. *See* Me. Const. art. 4, pt. 1, § 5; Me. Const. art 4, pt. 2, § 5; Me. Const. art. 5, pt. 1, § 3. The MHPC, a research and educational organization, is also concerned that the Constitution be followed with respect to each individual’s fundamental right to vote.

As explained below, General Joshua Chamberlain risked his life maintaining the rule of law against threats of violence precipitated by an electoral process that required a majority vote. As a result of the crisis, Maine voters changed the electoral process

¹ These members are Sue Austin, Bruce Bickford, Russell Black, Dick Campbell, Richard Bradstreet, Rich Cebra, Patrick Corey, Paul Chace, Garrell Craig, Kathleen Dillingham, Ellie Espling, Brad Farrin, Bob Foley, Ken Fredette, Karen Gerrish, James Gillway, Phyllis Ginzler, Chad Grignon, Stacey Guerin, David Haggan, Sheldon Hanington, Jeff Hanley, Matthew Harrington, Stephanie Hawke, Fran Head, Lance Harvell, Lloyd Herrick, Gary Hilliard, Norm Higgins, Chris Johansen, Jonathan Kinney, Mary Anne Kinney, Larry Lockman, Peter Lyford, Rich Malaby, Don Marean, Gina Mason, Carol McElwee, Beth O’Connor, Lester Ordway, Matthew Pouliot, Wayne Parry, John Picchiotti, Mike Perkins, Richard Pickett, Jeffrey Pierce, Dwayne Prescott, Roger Reed, Deb Sanderson, Heidi Sampson, Stedman Seavey, Roger Sherman, Abden Simmons, Heather Sirocki, Tom Skolfield, Paul Stearns, Harold Stewart III, Joel Stetkis, Scott Strom, Paula Sutton, Tim Theriault, Jeff Timberlake, Will Tuell, Beth Turner, Karen Vachon, Nathan Wadsworth, Ray Wallace, Karl Ward, Dustin White, Tom Winsor, and Steve Wood.

under the Constitution so that only a plurality vote is now required to determine the winner of an election. The Republican Caucus and MHPC submit this brief to defend the fruits of what General Chamberlain referred to as his second Round Top.²

STATEMENT OF THE ISSUE³

Question 2. Does the method of ranked-choice voting established by the “Act to Establish Ranked-Choice Voting” in elections for Representative, Senator and Governor violate the provisions of the Constitution of Maine, Article IV, Part First, Section 5; Article IV, Part Second, Sections 3 and 4; and Article V, Part First, Section 3, respectively, which declare that the person elected shall be the candidate who receives a plurality of all the votes counted and declared by city and town officials as recorded on lists returned to the Secretary of State?

The answer is “Yes.”

SUMMARY OF ARGUMENT

Men, you wish to kill me, I hear. Killing is no new thing to me. I have offered myself to be killed many times, when I no more deserved it than I do now. Some of you, I think, have been with me in those days. You understand what you want, do you? I am here to preserve the peace and honor of this State, until the rightful government is seated, - whichever it may be, which is not for me to say. But it is for me to see that the laws of this state are put into effect, without fraud, without force, but with calm thought and sincere purpose. I am here for that, and I shall do it. If anybody wants to kill me for it, here I am. Let him kill!

~ Gen. Joshua L. Chamberlain⁴

² See Letter from Gen. Chamberlain to F. Chamberlain (Jan. 15, 1880) (“Yesterday was another Round Top . . .”), in *The Grand Old Man of Maine: Selected Letters*, at 96-97 (Jeremiah E. Goulka, ed. 2004) (hereafter, *Selected Letters*). Chamberlain’s counterattack with the 20th Maine Regiment on Little Round Top has been credited with winning the Battle of Gettysburg and, ultimately, the Civil War.

³ This Brief only addresses the second of the three questions presented by the Senate.

By ____, old General, the first man that dares to lay a hand on you, I'll kill him on the spot!

~ A Civil War veteran⁵

With these words, one of the greatest crises in Maine history began to recede. The cause of this crisis? A disputed election, in which no candidate for Governor received a majority of votes, led to the attempted seating of rival Legislatures and Governors and to the gathering of armed factions in the Capital. For a period, state government collapsed. Only General Chamberlain's steady and impartial hand as commander of the state militia throughout the constitutional crisis dispelled the threat of violence and, ultimately, allowed the judicial process to resolve the outcome of the election. The next year, wanting nothing more to do with the requirement that the Governor be elected by majority vote, Maine voters approved an amendment to the Maine Constitution declaring that the gubernatorial candidate receiving a plurality of votes shall be declared the winner. This was the last of three amendments dispensing with the majority requirement for Representatives, Senators, and, finally, Governor.

The "Act to Establish Ranked-Choice Voting" (the "Act") contravenes the Maine Constitution, as it has been amended. The Act replaces the Constitution's simple plurality requirement with an electoral system that effectively requires a

⁴ Chamberlain Association of America, *Joshua Lawrence Chamberlain, Supplement: The Twelve Days at Augusta – 1880*, at 24-25 (1906) (hereafter, "*Twelve Days*"). *Twelve Days* is likely General Joshua Chamberlain's own account of the crisis of 1880. See John J. Pullen, *Joshua Chamberlain: A Hero's Life and Legacy*, at 77-78 (1999) (hereafter "Pullen").

⁵ *Twelve Days*, at 25.

majority vote by eliminating “last-place candidates” during multiple rounds of ballot-counting until there are two remaining candidates and by deeming “the candidate with the most votes in the final round” to be elected. 21-A M.R.S. § 1(35-A); *see* 21 M.R.S. § 723-A. This majority requirement is inconsistent with the Constitution’s use of the term “plurality,” as is demonstrated by the history of amendments to the Constitution and by the dramatic crisis that nearly resulted in the murder of General Chamberlain.

ARGUMENT

I. Standard of Review: The Constitutional Intent And Mandate Prevail.

While a statute is generally to be construed so as to avoid a constitutional problem when (and only when) it is susceptible to more than one interpretation, *see State v. Tozier*, 2015 ME 57, ¶ 26, 115 A.3d 1240, 1249, it is incontrovertible that the Maine Constitution is the fundamental law of the state, *see Opinion of the Justices*, 157 Me. 525, 529, 175 A.2d 728, 731 (1961) (“[T]he Constitution ... is by definition our fundamental and basic law.”). Statutes contrary to the Constitution must therefore be invalidated. *See Davis v. Auld*, 96 Me. 559, 53 A. 118, 121 (1902) (because the Constitution is “the fundamental law,” any statute conflicting with the Constitution “whether in terms or by implication, will be so far refused judicial cognizance”).

The principle behind this standard is simple. The framers of the Maine Constitution determined that certain aspects of our State’s governmental structure as well as certain rights of Maine citizens were sufficiently essential to justify inclusion in a document that is more difficult to amend than a statute. *See* Me. Const. art. 10, § 4

(amendment requires two-thirds vote of both houses of Legislature and a majority popular vote); *State v. Larrivee*, 479 A.2d 347, 349 (Me. 1984) (the Maine Constitution is the “primary protector of the fundamental liberties of Maine people”). In short, they sought to prevent fundamental governmental processes from being modified or basic liberties from being inhibited by a momentary whim of electoral passion. *See generally* The Federalist No. 43 (James Madison) (difficulty of amendment “guards ... against that extreme facility, which would render the Constitution too mutable”).

From this basic principle flow several standards that must guide this Court’s review. First, while a statute is presumed constitutional, this presumption “is not absolute; legislation which violates an express mandate of the constitution is invalid even though it is expedient or otherwise in the public interest.” *Maine Beer & Wine Wholesalers Ass’n v. State*, 619 A.2d 94, 97 (Me. 1993); *McGee v. Secretary of State*, 2006 ME 50, ¶ 39, 896 A.2d 933, 944. Second, in construing a constitutional amendment, the Court’s purpose “is to give effect to the intent of the framers and the people who have adopted it.” *Opinion of the Justices*, 125 Me. 529, 133 A. 265, 269 (1926). Third, constitutional provisions are “accorded a liberal interpretation in order to carry out their broad purpose.” *Allen v. Quinn*, 459 A.2d 1098, 1102 (Me. 1983).

As discussed below, the Act violates the Constitution’s express mandate that gubernatorial and legislative elections are to be conducted on the basis that the candidate obtaining a simple plurality is to be declared the winner. The Legislature and people of Maine chose to enshrine this electoral provision into the Constitution,

and thereby removed it from the ambit of mere legislation. This conclusion is firmly supported by the intent of the relevant constitutional provisions, as illustrated by the crisis of 1880, to give certainty in the electoral process by ensuring that the candidate initially garnering the most votes shall be declared the winner. The relevant provisions of the Constitution should be broadly construed to effectuate this purpose.

II. The Constitutional Text Shows That Ranked Choice Voting Is Unconstitutional.

A. A Plain Reading Of The Current Constitutional Text Shows That Ranked Choice Voting Is Unconstitutional.

The Maine Constitution expressly provides that Representatives, Senators, and the Governor are to be elected by a “**plurality**” of all votes cast in an election. Me. Const. art. 4, pt. 1, § 5 (candidates for the House of Representatives who “have been elected by a plurality of all votes returned” are to be notified by the Governor to attend the Legislature, and the House shall finally determine who was elected) (emphasis added); *id.* art. 4, pt. 2, §§ 4, 5 (candidates for Senate who have been “elected by a plurality of the votes” in each senatorial district are to be notified by the Governor to attend the Legislature, and the Senate shall determine who was elected by a “plurality of votes”); *id.* art. 5, pt. 1, § 3 (the Senate and House “shall declare” the candidate for Governor receiving a “plurality of all the votes returned”).⁶

The term “plurality” in these provisions establishes that the person securing the most votes on Election Day shall be declared the winner, regardless of whether she or

⁶ The relevant provisions of the Constitution have been attached hereto as Addendum 1.

he obtains a majority. *See Allen*, 459 A.2d at 1098 (in interpreting the Constitution, the Court “look[s] primarily to the language used”); *State v. Longley*, 119 Me. 535, 112 A. 260, 262 (1921) (words used in Constitution should be given “ordinary meaning”). The Constitution’s use of the word “plurality” stands in contradistinction to the word “majority.” A “plurality” is defined as “[t]he greatest number (esp. of votes), regardless of whether it is a simple or an absolute majority.” Black’s Law Dictionary (10th ed. 2014). A “majority,” by contrast, is defined as “[a] number that is more than half of a total; a group of more than 50 percent.” *Id.* The use of the word “plurality” rather than “majority” did not occur in a vacuum, and was not an accident. The Constitution uses the word “majority” eighteen times, and the word “plurality” seven times. The use of the two different terms in different provisions shows that the framers knew how to require a majority vote if they so wished. *See Opinion of the Justices*, 2015 ME 107, ¶ 34, 123 A.3d 494, 506-07 (use of different terms showed intent).

The language of the Constitution, when construed as a whole, also implies that the candidate obtaining the most votes from the **first and only** round of ballot-counting must be declared the winner, not the candidate obtaining the most votes from a multi-round ballot-counting process. *See Opinion of the Justices*, 2015 ME 107, ¶ 40, 123 A.3d at 508 (provisions of the Constitution should be construed as a whole). The Constitution provides that votes town clerks shall count ballots for Representative, Senator, and Governor, and that the town clerks shall publish the number of votes “for each person” who received votes – it does not allow for

discarding votes for any candidates and tallying only votes for a reduced number of candidates in a multi-round ballot-counting process. Me. Const. art. 4, pt. 1, § 5; *see also id.* art 4, pt. 2, § 3; *id.* art. 5, pt. 1, § 3. Notably, the conclusion that the person receiving the initial plurality be declared the winner is reinforced by the history of amendments to the Constitution, which stripped away the means for having multiple rounds of election in the event no candidate received a majority. (*See infra*, at 13.)

Finally, Maine voters approving the relevant Constitutional amendments imposing a plurality requirement would have understood those amendments to preempt any statutory majority requirement. *See Allen*, 459 A.2d at 1100 (“[I]n construing the Constitution we seek the meaning which the words would convey to an intelligent, careful voter.”). As described in detail below, the Constitution has specifically been amended to remove the requirement that Representatives, Senators, and the Governor be elected by a “majority.” (*See infra*, at 14-15.) With respect to gubernatorial elections specifically, this change was made after the dramatic political crisis of 1880. (*See infra*, at 15.) Moreover, while the Constitution of 1820 provided the Legislature with the authority to alter the mode of electing Representatives, Me. Const. art. 4, pt. 1, § 5 (1820), this provision was adopted over objections that the proviso would enable the Legislature to alter the mode of electing Representatives, *see Debates and Journal of the Constitutional Convention of the State of Maine (1819-20)*, at 201-02 (1894), and was later stricken. (*See infra* at 14.) This history demonstrates a learned intent to enshrine how we elect our leaders in the Constitution rather than mutable

statutes,⁷ and belies any attempt to construe the term “plurality” as a mere minimum—or “floor” — that can be raised by statute. *See Opinion of the Justices*, 145 Me. 316, 323, 80 A.2d 866 (1951) (any constitutional ambiguity “must be held to be settled by the contemporaneous construction” given to it).

Contrary to the plain text of the Constitution, which provides that the person receiving the most votes from one round of ballot-counting should be declared the winner, the Act requires a majority election via a multi-round ballot-counting process, necessarily creating the possibility that the person receiving the greatest number of votes will be deprived of election. Under the Act, the candidates for an office will be reduced in number through a recount process whereby last-place finishers are eliminated until only two are standing, and of these the one receiving the most votes will be elected — necessarily by a majority of votes counted in the final round.

21 M.R.S. § 723-A(2). As proponents of the Act readily stated leading up to the Act’s adoption by referendum, the Act eliminates the possibility of a minority winner and imposes a majority requirement.⁸ This is directly contrary to the Constitution’s

⁷ It is noteworthy prior major changes in the election process have been accomplished by constitutional amendment. *See, e.g.*, Res. 1951, c. 130 (amending the Constitution to empower the Legislature to authorize absentee voting); Res. 1935, c. 110 (authorizing ballot machines).

⁸ Proponents of the Act frankly advocated for it on the basis that it “Restores Majority Rule.” *See* Yes On 5, <http://www.rcvmaine.com/faq> (last visited Feb. 21, 2017). In the view of the Act’s proponents, “[m]ajority rule is a fundamental principle of American representative democracy. Our leaders should be elected by more than half of us.” *Id.* Proponents described the ranked choice ballot counting process as follows: “On Election Night, all the ballots are counted for voters’ first choices. If one candidate receives an outright majority, he or she wins. If no candidate receives a majority, the candidate with the fewest first choices is eliminated and voters who liked that candidate the best have their ballots instantly counted for their second choice. The process repeats and last-

requirement that the person receiving the most votes – regardless of whether the person obtains a majority – shall be declared the winner.

This conclusion is supported by a decision of the Arkansas Supreme Court that is directly on point. Much like Maine, the Arkansas constitution states that the governor is to be elected by plurality. Ark. Const. art. 6, § 3. The Arkansas Supreme Court considered a constitutional challenge under this provision to an election statute that imposed a run-off vote in the event no candidate received an initial majority. *Rockefeller v. Matthews*, 459 S.W.2d 110, 110 (Ark. 1970). The court reasoned that “[t]he use of the phrase[] ‘highest number of votes’ ... makes it clear to us that the framers of the constitution were dealing in terms of plurality.” *Id.* at 111. In light of this plurality requirement, the Arkansas Supreme Court held the law unconstitutional. *Id.* The court concluded that the constitution precluded any voting procedure that would necessarily result in a narrowing of the field of candidates to two and election of the candidate that garnered the majority of the vote as between those two. *Id.* The court observed that the “difference in language between the highest number of votes and a majority of all the votes is not the accident of composition; the words are used advisedly.” *Id.* (quoting *State v. Swift*, 69 Ind. 505, 517 (1880)).⁹ As the court wrote,

place candidates lose until one candidate reaches a majority and wins.” *Id.* The policy rationale of the Act’s proponents may or may not be superior to the rationale of an earlier generation of Maine voters that abolished majority voting by constitutional amendment, but the competing policy considerations are irrelevant to the constitutionality of the Act.

⁹ The court also favorably cited a case in which the Indiana Supreme Court drew the inference that – because of a constitutional plurality requirement – the legislature was not free to adopt a majority rule. *Rockefeller*, 459 S.W.2d at 111 (citing *In re Todd*, 193 N.E. 865, 870 (Ind. 1935)).

“[h]ad the framers of the constitution intended that the majority rule would apply in the popular election certainly they would not have substituted the phrase ‘highest number of votes.’” *Id.* at 112. The same reasoning applies here.¹⁰

B. The History Of Amendments To The Constitution Supports The Conclusion That Ranked Choice Voting Is Unconstitutional.

The current plurality requirement stands in stark contrast to the initial requirement that legislative and executive officers must be elected by a “majority” of votes cast. While Maine experimented with requiring a majority, that experiment was quickly rejected in favor of a plurality requirement. In a series of three amendments, the Constitution was altered to prevent just the type of electoral process implemented by the Act – namely, the possibility of naming as the electoral winner someone other than the person receiving the initial plurality of votes cast.

1. The Constitution Of 1820 Originally Required A Majority, And Provided Various Election Mechanisms If No Candidate Received An Initial Majority.

The Constitution of 1820 required Representatives, Senators, and the Governor to be elected by a majority.¹¹ If no majority was obtained, the Constitution provided specific procedures for narrowing the list of candidates and electing one person. Moreover, the Legislature was empowered to establish a different mode of

¹⁰ The Massachusetts constitution contains a plurality requirement similar to that of the Maine Constitution. Massachusetts courts have not had the opportunity to render a decision interpreting this language. *See Moore v. Election Comm’rs of Cambridge*, 309 Mass. 303, 329 (1941) (noting that the constitutional plurality requirement only applied to civil officers, not municipal officials, and that the court therefore did not need to reach the constitutional question regarding municipal ranked choice voting), *abrogation recognized by McSweeney v. City of Cambridge*, 422 Mass. 648, 653-54 (1996).

¹¹ The Constitution of 1820 has been attached hereto as Addendum 2.

election for Representatives. In short, the Constitution initially established a process not dissimilar to the Act in that a candidate gathering the most votes on Election Day could ultimately be foreclosed from gaining office and another candidate gathering fewer initial votes could be selected, and even permitted statutory changes.

In the case of Representatives, the Constitution of 1820 imposed certain voting procedures and further provided that “in case any person shall be elected by a **majority** of all the votes, the selectmen or assessors shall deliver the certified copies of such lists to the person so elected.” Me. Const. art. 4, pt. 1, § 5 (1820) (emphasis added). In the event no candidate secured a majority, new rounds of voting would be held “until an election have been effected.” *Id.* Notably, the Constitution further stated that “the Legislature may by law prescribe a different mode of ... ascertaining the election of the representatives.” *Id.*

The Constitution of 1820 established voting procedures for Senators that followed that of the procedures for electing Representatives, *see* Me. Const. art. 4, pt. 2, § 3 (1820), and expressly stated that the “Governor and Council shall ... issue a summons to such person, as shall appear to be elected by a **majority** of the votes,” *id.* § 4 (emphasis added). *See id.* § 5 (empowering Senate to “determine who are elected by a majority of votes to be Senators.”). The Constitution of 1820 also provided a different measure of filling a vacancy in the event no candidate earned a majority: the two houses of the Legislature would jointly select from those obtaining the most votes. *Id.*

The Constitution provided that procedures for the election of a Governor were to follow the manner established for Representatives and Senators, Me. Const. art. 5, pt. 1, § 3 (1820), and further stated that the Secretary of State was to provide election results to “the Senate and House of Representatives to be by them examined, and, in case of a choice by a **majority** of all the votes returned, they shall declare and publish the same.” *Id.* (emphasis added). In the event no candidate received a majority, yet a third alternative election mechanism was established. The House of Representatives would select two persons from the four candidates receiving the most votes (if there were that many), and the Senate would select the Governor from those two. *Id.*

2. The Constitution Was Thereafter Deliberately And Consciously Amended To Require Only A Plurality.

The requirement that candidates for the Legislature or for Governor obtain a majority of votes, the intricate procedures for narrowing the pool of candidates and electing one individual in the event that no candidate initially obtained a majority, and the Legislature’s authority to alter the mode of electing Representatives did not last long. The majority requirement and the multi-round election process to be followed in the event no majority was obtained by any candidate did not prove workable, as the crisis of 1880 would show. (*See infra*, at 15-23.) The election requirements for Representative, Senator, and Governor were changed to a “plurality” one after the other during the 1800s, and the right of the Legislature to change the means of

“ascertaining the election of” Representatives removed.¹² In light of these changes, one cannot read the constitutional provisions relating to the election of Representatives, Senators, and Governors as permitting a statutory requirement that these officials be elected by a majority.

The first change affected the election of Representatives. In 1847, the Legislature resolved that Article 4, Part 1, Section 5 should be amended by striking out the words “a majority” and inserting the words “the highest number.” *See* Res. 1847, c. 45. This amendment (Amendment VII) was approved, instituting election by a plurality of the votes returned, rather than by a majority. *See* Marshall J. Tinkle, *Maine State Constitution*, at 78 (2d ed. 2013) (hereafter, “Tinkle”).¹³ The provision for electing a Representative if no candidate received a majority of votes cast was deleted, as was the provision allowing the Legislature to adopt an alternate means of election. *See* Me. Const. art. 4, pt. 1, § 5 (1876).

The second change affected the election of Senators. In 1875, the Legislature passed a resolution that “Senators shall be elected by a plurality of the votes given in by the qualified electors.” Res. 1875, c. 98. The Legislature resolved that Article 4, Part 2, Sections 4 and 5 should be amended by striking out the word “majority” and

¹² The relevant legislative resolutions proposing the amendments are attached as Addendum 3.

¹³ Although the Legislature had also resolved in 1847 that the Constitution be amended to provide that Senators and the Governor also be elected by plurality, these proposals were rejected by voters at the same time that the plurality requirement for Representatives was approved. Tinkle, at 83, 115. In 1864, Article 4, Part 1, Section 5 was again amended after a resolution of the Forty-Third Legislature. The revised text used the term “plurality” rather than “highest number.” Res. 1864, c. 344. The proposal was adopted by voters as Amendment X.

replacing it with the word “plurality.” *Id.* Voters approved the proposed amendment (Amendment XIII). *See* Tinkle, at 83. The provision specifying the means for electing a Senator in the event no candidate received a majority of votes was also removed. *See* Me. Const. art. 4, pt. 2, § 5 (1876).

The third change came later, after the constitutional crisis that is the subject of the next section. In 1880, following a hotly contested election and near-riots only calmed by General Joshua Chamberlain, the Legislature passed a resolution that Article 5, Part 1, Section 3, be amended by striking out the word “majority” wherever it appeared and replaced with the word “plurality.” *See* Res. 1880, c. 159. No doubt as a result of the harrowing experience of 1879-1880, the electorate approved the proposed amendment (Amendment XXIV). *See* Tinkle, at 115. The provision specifying how the Governor was to be elected absent a popular vote winner was later rewritten (Amendment XCVI). *See* Res. 1963, c. 119.

III. Constitutional History Supports The Conclusion That Ranked Choice Voting Is Unconstitutional.

While little is known regarding the provenance of the change to election by plurality for Representatives and Senators, the plurality requirement for the election of Governor was preceded by the “gravest constitutional crisis” in Maine history – the election of 1879 and the ensuing conflict in 1880. *See* Tinkle, at 12. This crisis underlines the conclusion that, in amending the Constitution, Maine voters rejected the notion that the candidate securing the most votes should be deprived of office.

The seeds for the crisis were sown in 1878. In that year, for the first time since 1855, none of the gubernatorial candidates received a majority of the popular vote. *See* Louis C. Hatch, *Maine: A History*, at 593-95 (1919) (hereafter, “Hatch”); Pullen, at 77-78. Accordingly, election of the Governor fell to the Legislature. While the Republican candidate had gained the clear plurality of the vote (56,554 votes to 41,371 and 28,208 for his two opponents), the Legislature did not choose him. *See* Hatch, at 595. Instead, in the House, the Democrat and Greenback parties joined to forward the Democrat and Greenback candidates as the two finalists from which the Senate would choose. *See id.* The Senate, controlled by Republicans, opted to elect Alonzo Garcelon, the Democrat candidate. *See id.*; Pullen, at 78.

The election of 1879 was fought against this background.¹⁴ Again, three gubernatorial candidates were fielded by the Republican, Democrat, and Greenback parties. *See* Hatch, at 595-98. The election was hotly contested, with Democrats and Greenbacks cooperating in legislative races to create “Fusion” tickets. *See id.* at 598. Again, however, there was no popular election of a Governor. The Republican, Daniel Davis, fell just shy of a majority - 49.69%.¹⁵ *See id.* at 599; Pullen, at 79. At first it seemed that Davis would still be selected, as Republicans had carried the Legislature. *See* Hatch, at 599; Abbott, at 562. Returns showed that voters elected

¹⁴ Until 1880, State elections were held annually. *See* John S. C. Abbott, *History of Maine*, at 560 (2d ed. 1892) (hereafter, “Abbott”).

¹⁵ The vote totals were 68,967 for Daniel Davis (Republican), 47,643 for Joseph Smith (Greenback), 21,851 for Alonzo Garcelon (Democrat), 264 for Bion Bradbury, and 81 for others. Hatch, at 599.

19 Republican Senators, to 12 Fusionists; in the House, there were 90 Republicans and 61 Fusionists. *See* Pullen, at 79. But the story was just beginning.

In an unusual move, Governor Garcelon and his Council determined to act as an election return board in order to ascertain whether certain persons elected to the Legislature on the face of the returns were entitled to their seats. *See* Hatch, at 599-600; Abbott, at 562. Review began on October 28, 1879, and rumors of conspiracy abounded as the Council carried out its work over the next month and a half. *See* Hatch, at 600-01; Pullen, at 80-81. On December 17, 1879, the Governor and Council announced the results of their canvass of election results. Setting aside the law permitting correction of clerical errors, the Governor and Council announced that they would throw out numerous returns based on various technicalities, such as spelling irregularities or the use of a candidate's initials on an election return. Not so coincidentally, all of the technical errors discovered during the review resulted in the disqualification of Republican members. While initial returns had given Republicans a majority of seven in the Senate and twenty-nine in the House, the revised results gave Fusionists a majority of nine in the Senate and seventeen in the House, with twelve vacancies. *See* Hatch, at 601-02; Abbott, at 562; Pullen, at 81-83.

"Indignation meetings" immediately sprang up across the state. *See* Hatch, at 602; Pullen, at 83; *Twelve Days*, at 4. Threats of violence quickly escalated, including by leading Republicans Hannibal Hamlin and James G. Blaine, each of whom had rushed home from Washington. *See* Hatch, at 604; Pullen, at 83-85. Senator and former

Vice-President Hannibal Hamlin was reported to have stated: “If they do usurp the laws of the State, I favor going to the State House and take the revolutionists by the nap of the neck and pitch them into the stream, and I will be one to go and assist.” Hatch, at 604. Senator Blaine called for “[a] great and popular uprising” to “restore honest government to Maine.” Pullen, at 85. One of the few voices of calm was that of General Chamberlain, who declined Senator Blaine’s request to host an “indignation meeting.” Instead, he wrote a stern letter of rebuke: “[W]hat we now need to do is not to add to popular excitement which is likely to result in disorder and violence, but to aid in keeping the peace I deprecate all suggestions of bloodshed I cannot bear to think of our fair and orderly state plunged into the horrors of civil war.” Letter from Gen. Chamberlain to Sen. Blaine (Dec. 29, 1879), in *Selected Letters*, at 91-92; see *Twelve Days*, at 5, 17.

Responding to the increased incitement, Governor Garcelon – instead of calling out the state militia or accepting the assistance of Augusta police offered by Mayor Charles Nash – created his own *ad hoc* “militia” to guard the State House. See Pullen, at 86-87; Willard M. Wallace, *Soul of the Lion*, at 259 (1960) (hereafter “Wallace”). These men “were not of very choice material.” *Twelve Days*, at 4. Governor Garcelon also ordered the commander of the arsenal at Bangor to deliver to him arms and ammunition on December 26, 1879. Bangor Mayor Brown and the citizenry of Bangor initially prevented the delivery, though the weapons were eventually delivered on December 30, 1879. See Hatch, at 604-05; Wallace, at 259.

Heeding calls to de-escalate the situation, Governor Garcelon submitted a request for an Opinion of the Justices relating to the alleged technical deficiencies that had led him to unilaterally disqualify various Republican candidates. *See* Hatch, at 605-08; Abbott, at 563; Pullen, at 86-87. The justices issued a unanimous opinion rejecting the Governor's canvass. *See* Hatch, at 608; Abbott, at 563; *In re Opinions of the Justices*, 70 Me. 560 (1879). Governor Garcelon still did not back down, and refused to recall the certificates he had issued. *See* Abbott, at 653. As Governor Garcelon later explained, "I did not regard the opinions of the Court as a matter to be followed, unless I chose." Pullen, at 87-88.

On January 5, 1880, concerned that his term would be expiring in two days without the seating of the Legislature and election of a Governor, Governor Garcelon appointed General Chamberlain as commander of the state militia and issued the following order: "Major-General Joshua L. Chamberlain is authorized and directed to protect the public property and institutions of the State until my successor is duly qualified." Hatch, at 609; *see* Pullen, at 88-90; *Twelve Days*, at 6. On January 6, 1880, General Chamberlain took command. He immediately dispersed Governor Garcelon's militia,¹⁶ returned the arms and ammunition to Bangor, and entrusted protection of the State House to the Augusta police. *See* Hatch, at 609; Pullen, at 92 Wallace, at 259; *Twelve Days*, at 6. Having taken these calming actions, General

¹⁶ He wrote Governor Garcelon: "I do not find that the men on duty as a guard or police force in the State House have any proper ... status civil or military" Letter from Gen. Chamberlain to Gov. Garcelon (Jan. 6, 1880), *in Selected Letters*, at 93.

Chamberlain pre-staged militia outside Augusta. He and Mayor Nash then took up office in the State House and undertook to hold off the competing armed factions of Fusionists and Republicans.¹⁷ Pullen, at 93; Wallace, at 259; *Twelve Days*, at 7-8.

Republican leaders and their fighters were headquartered at Blaine's house; Fusionists and their own fighters in an office and hotel downtown. Alice R. Trulock, *In the Hands of Providence*, at 357 (1992) (hereafter, "Trulock"); Wallace, at 257-58.

Rival "legislatures" then formed. The Fusionist Senate elected James Lamson as president, and he soon made demands on General Chamberlain to recognize him as acting Governor. The General refused, taking the ground that he had been ordered not to execute the laws, but to protect the institutions of the State. He said he would recognize no Governor or Legislature without a decision of the Supreme Judicial Court, and meanwhile would keep the peace. *See* Hatch, at 611; Pullen, at 95; Wallace, at 261-62; *Twelve Days*, at 11, 20-21. The Republican Senate elected Joseph Locke as president, and he too made demands on General Chamberlain to be recognized as acting Governor. General Chamberlain provided the same response he gave Lamson. *See* Hatch, at 611; Pullen, at 95; Wallace, at 262; *Twelve Days*, at 12.

On January 12, 1880, the crisis began to come to a head. In the morning, the Fusionist Legislature elected Lamson as Acting Governor. *See* Hatch, at 611. Later on the same day, the Republican Legislature also met in the State House – despite the

¹⁷ General Chamberlain wrote to his wife: "I do not dare leave here a moment. There would most assuredly be a coup d'état, ending in violence and bloodshed." Letter from Gen. Chamberlain to F. Chamberlain (Jan. 9, 1880), *in Selected Letters*, at 94.

effort of the Fusionist superintendent of public buildings to prevent the gathering by making off with the keys and gas lighter – and elected Locke as Acting Governor. *See id.* at 611-12. The Republican Legislature also set in motion a request for an additional Opinion of the Justices. *See id.* at 612.

Pressure grew on General Chamberlain. Augusta was filled with “adventurers” and “notorious characters.” *Twelve Days*, at 12. Senator Blaine’s messenger informed the General that Republicans had decided to “pitch the Fusionists out of the window.” General Chamberlain bluntly replied: “I will permit you to do nothing of the kind. I am going to preserve the peace.” *See* Hatch, at 611; Wallace, at 263-64. A Fusionist plot to kill Senator Blaine was also uncovered and thwarted by police. *See* Pullen, at 94; Wallace, at 265. The Fusionist candidate for governor attempted to place General Chamberlain under arrest, but – in a somewhat ludicrous turn – the attempt came to nothing when the General “declined to be arrested.” *Twelve Days*, at 15 & n.15; Trulock, at 357-58; Wallace, at 266. A plot to kidnap the General was also uncovered and prevented. *See Twelve Days*, at 19; Hatch, at 611. Both sides also tried to buy the General’s favor – each faction offered to make General Chamberlain a U.S. Senator if he would recognize their candidates. He refused. *Twelve Days*, at 24; Pullen, at 95. His even-handedness resulted in his being reviled by both camps. Pullen, at 104; *Twelve Days*, at 9. Republicans called him a “renegade,” Democrats called him a “traitor.” Trulock, at 357; Wallace, at 267; *Twelve Days*, at 18.

During one of the worst days in Augusta, a staff officer rushed into General Chamberlain's office to warn him that a mob was forming to kill him. Buttoning his coat, the General stepped into the rotunda and summoned all of his powers as a former professor of rhetoric to give the stirring speech already quoted above: "[I]t is for me to see that the laws of this state are put into effect I am here for that, and I shall do it. If anybody wants to kill me for it, here I am. Let him kill!" (*See supra* at 2). With that, he unbuttoned and threw open his coat, looking straight at the mob. After an old soldier broke the ensuing silence by shouting his intent to kill any man that dared put a hand on the General, the mob broke and melted away.¹⁸ *Twelve Days*, at 24-25; Pullen, at 96; Trulock, at 358; Wallace, at 264.

General Chamberlain had broken the worst of the threat of violence by his personal courage (and silver tongue), and the crisis soon began to fade. He continued to resist calls to employ force to clear out the competing factions. In a January 16, 1880, letter to Senator Blaine, Chamberlain wrote: "Whoever first says 'take arms!' has a fearful responsibility on him, & I don't mean it shall be me who does that." Letter from Gen. Chamberlain to Sen. Blaine (Jan. 16, 1880), in *Selected Letters*, at 97. On the same day, the Supreme Judicial Court responded to the Republican Legislature's request for an Opinion of the Justices. The Court replied to the questions of the

¹⁸ On January 15, 1880, General Chamberlain wrote: "Yesterday . . . [t]here were threats all the morning of overpowering the police & throwing me out the window, & the ugly looking crowd seemed like men who could be brought to do it (or to try it)... . [M]y main object is to keep the peace & give opportunity for the laws to be fairly executed." Letter from Gen. Chamberlain to F. Chamberlain (Jan. 15, 1880), in *Selected Letters*, at 96-97.

Republican Legislature with a decision in its favor. *See* Hatch, at 612-13; Pullen, at 99; *Opinion of the Justices*, 70 Me. 570 (1880).

The Republican Legislature assembled to elect a governor on January 17, 1880. The House sent to the Senate the names of Daniel Davis and Bion Bradbury (who had received just 264 votes), and the Senate elected Davis. *See* Hatch, at 613. Having in hand the Opinion of the Justices affirming the Republican Legislature as the rightful Legislature, General Chamberlain recognized Davis as governor and issued an order stating that “The trust devolved on me ... is at an end.” General Orders No. 4 (Jan. 17, 1880), *in Selected Letters*, at 99; *see* Hatch, at 613; Pullen, at 99.

The Fusionists were not immediately swayed. The Fusionist Secretary of State made off with the State seal and hid it. *See* Hatch, at 614. The Fusionist Legislature again attempted to enter the Capitol, but were refused; they later met in another building and voted to submit additional questions to the Supreme Judicial Court. *See* Hatch, at 614; Abbott, at 565. Fearing further threats of violence, Governor Davis called in militia from Augusta, Gardiner, and Auburn. *See* Hatch, at 614.

The Supreme Judicial Court’s third opinion on the disputed election finally ended the crisis. On January 23, 1880, the Court issued another Opinion of the Justices, reaffirming that the Republican Legislature was legal. *See id.* at 614-15; *Opinion of the Justices*, 70 Me. 600 (1880). On January 30, 1880, the last of the militia were sent home; on January 31, 1880, the Fusionist Secretary of State re-appeared under threat of an arrest warrant and surrendered under protest the State seal, the election returns,

and the reports on the election returns for 1879. *See* Hatch, at 615; Abbott, at 566.

The crisis was over.

Even before the State seal had been returned to its rightful place, the Legislature moved to eliminate the majority vote rule. On January 27, 1880, the Legislature adopted the Resolve proposing that the Constitution be amended to require that the candidate receiving a “plurality” of votes for Governor be determined the winner. Res. 1880, c. 159. That autumn, Maine voters adopted the amendment. The reason could not be clearer: it was intended to ensure that the candidate initially securing the most votes be declared Governor.¹⁹

It is not often that the Court is blessed with legislative history reflecting the drafters’ intent – much less history as clear as the history stemming from the crisis of 1880. After the dissatisfactory results from and ultimately the violent crisis precipitated by a majority requirement, the Maine voters changed the Constitution so that whoever receives the most votes, majority or not, is the winner – period. Avoiding further disruption from mutable statutes, the Maine Legislature, together with the people of Maine, chose to enshrine this plurality principle in the Constitution. Since that day, the rule of law has obtained in Maine’s electoral process.


¹⁹ The argument might be made that the Constitution was amended simply to ensure that voters – rather than the Legislature – determine the Governor. This notion is belied by the fact that the Constitution had earlier been amended to eliminate the majority requirement for House elections, even though voters themselves would vote again to select a winner by majority. (*See supra*, at 14.)

CONCLUSION

The Act may be sound policy, and its proponents may be right that “[o]ur leaders should be elected by more than half of us” and that “[m]ajority rule is a fundamental principle of American representative democracy.” (*See supra*, at 9 n.8). Or the Act may not reflect sound policy, and its proponents may have failed to weigh countervailing considerations – including the considerations that motivated an earlier generation to dispense with majority voting.

But that is not the question now before the Court. What matters is that the Legislature and Maine voters previously enshrined a different “fundamental principle” – a principle of Maine’s own unique system of representative democracy – in the Maine Constitution. Based on their experience with majority elections, they established plurality elections as a central aspect of Maine’s constitutional government. They chose to declare the person initially securing the most votes for Representative, Senator, or Governor, regardless of whether the person obtained a majority, to be elected. This choice was made deliberately, and with the intent to prevent the chosen electoral process from being changed by statute. The Act contravenes this fundamental principle of governance set out in Articles IV and V of the Maine Constitution, and is therefore invalid.

Dated: March 3, 2017



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ADDENDUM 1

CONSTITUTION SECTIONS

Maine Revised Statutes Annotated
Constitution of the State of Maine (Refs & Annos)
Article IV. [Legislative Power] (Refs & Annos)
Part First. House of Representatives

M.R.S.A. Const. Art. 4, Pt. 1, § 5

§ 5. Election of representatives; lists of votes delivered forthwith; lists of votes examined by Governor; summons of persons who appear to be elected; lists shall be laid before the House

[Currentness](#)

Section 5. The meetings within this State for the choice of Representatives shall be warned in due course of law by qualified officials of the several towns and cities 7 days at least before the election, and the election officials of the various towns and cities shall preside impartially at such meetings, receive the votes of all the qualified electors, sort, count and declare them in open meeting; and a list of the persons voted for shall be formed, with the number of votes for each person against that person's name. Cities and towns belonging to any Representative District shall hold their meetings at the same time in the respective cities and towns; and such meetings shall be notified, held and regulated, the votes received, sorted, counted and declared in the same manner. Fair copies of the lists of votes shall be attested by the municipal officers and the clerks of the cities and towns and the city and town clerks respectively shall cause the same to be delivered into the office of the Secretary of State forthwith. The Governor shall examine the returned copies of such lists and 7 days before the first Wednesday of December biennially, shall issue a summons to such persons as shall appear to have been elected by a plurality of all votes returned, to attend and take their seats. All such lists shall be laid before the House of Representatives on the first Wednesday of December biennially, and they shall finally determine who are elected.

[Notes of Decisions \(22\)](#)

M. R. S. A. Const. Art. 4, Pt. 1, § 5, ME CONST Art. 4, Pt. 1, § 5

Current with emergency legislation through Chapter 1 of the 2017 First Regular Session of the 128th Legislature. The First Regular Session convened December 7.

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Maine Revised Statutes Annotated
Constitution of the State of Maine (Refs & Annos)
Article IV. [Legislative Power] (Refs & Annos)
Part Second. Senate

M.R.S.A. Const. Art. 4, Pt. 2, § 4

§ 4. Lists of votes examined by Governor; summons to persons who appear to be elected

[Currentness](#)

Section 4. The Governor shall, as soon as may be, examine the copies of such lists, and at least 7 days before the said first Wednesday of December, issue a summons to such persons, as shall appear to be elected by a plurality of the votes in each senatorial district, to attend that day and take their seats.

[Notes of Decisions \(8\)](#)

M. R. S. A. Const. Art. 4, Pt. 2, § 4, ME CONST Art. 4, Pt. 2, § 4

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Maine Revised Statutes Annotated
Constitution of the State of Maine (Refs & Annos)
Article IV. [Legislative Power] (Refs & Annos)
Part Second. Senate

M.R.S.A. Const. Art. 4, Pt. 2, § 5

§ 5. Determination of Senators elected; procedure for filling vacancies

[Currentness](#)

Section 5. The Senate shall, on said first Wednesday of December, biennially determine who is elected by a plurality of votes to be Senator in each district. All vacancies in the Senate arising from death, resignation, removal from the State or like causes, and also vacancies, if any, which may occur because of the failure of any district to elect by a plurality of votes the Senator to which said district shall be entitled shall be filled by an immediate election in the unrepresented district. The Governor shall issue a proclamation therefor and therein fix the time of such election.

[Notes of Decisions \(5\)](#)

M. R. S. A. Const. Art. 4, Pt. 2, § 5, ME CONST Art. 4, Pt. 2, § 5

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Maine Revised Statutes Annotated
Constitution of the State of Maine (Refs & Annos)
Article V. [Executive Power] (Refs & Annos)
Part First. Executive Power

M.R.S.A. Const. Art. 5, Pt. 1, § 3

§ 3. Election; votes to be returned to Secretary of State; Secretary of State to lay
lists before the Senate and House of Representatives; provision in case of tie

[Currentness](#)

Section 3. The meetings for election of Governor shall be notified, held and regulated and votes shall be received, sorted, counted and declared and recorded, in the same manner as those for Senators and Representatives. Copies of lists of votes shall be sealed and returned to the secretary's office in the same manner and at the same time as those for Senators. The Secretary of State for the time being shall, on the first Wednesday after the first Tuesday of January then next, lay the lists returned to the secretary's office before the Senate and House of Representatives to be by them examined, together with the ballots cast if they so elect, and they shall determine the number of votes duly cast for the office of Governor, and in case of a choice by plurality of all of the votes returned they shall declare and publish the same. If there shall be a tie between the 2 persons having the largest number of votes for Governor, the House of Representatives and the Senate meeting in joint session, and each member of said bodies having a single vote, shall elect one of said 2 persons having so received an equal number of votes and the person so elected by the Senate and House of Representatives shall be declared the Governor.

M. R. S. A. Const. Art. 5, Pt. 1, § 3, ME CONST Art. 5, Pt. 1, § 3

Current with emergency legislation through Chapter 1 of the 2017 First Regular Session of the 128th Legislature. The First Regular Session convened December 7.

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ADDENDUM 2

CONSTITUTION OF 1820

CONSTITUTION OF MAINE

1820

WE the people of Maine, in order to establish justice, ensure Preamble.
tranquillity, provide for our mutual defence, promote our
common welfare, and secure to ourselves and our posterity the
blessings of Liberty, acknowledging with grateful hearts the
goodness of the Sovereign Ruler of the Universe in affording
us an opportunity, so favorable to the design ; and, imploring
his aid and direction in its accomplishment, do agree to form
ourselves into a free and independent State, by the style and
title of the State of Maine, and do ordain and establish the
following Constitution for the government of the same.

ARTICLE I.

DECLARATION OF RIGHTS.

SECT. 1. All men are born equally free and independent,
and have certain natural, inherent and unalienable Rights, Natural rights.
among which are those of enjoying and defending life and
liberty, acquiring, possessing and protecting property, and of
pursuing and obtaining safety and happiness.

SECT. 2. All power is inherent in the people ; all free All power inhe
ent in the pe
ple.
governments are founded in their authority and instituted for
their benefit ; they have therefore an unalienable and indefea-
sible right to institute government, and to alter, reform, or
totally change the same, when their safety and happiness
require it.

SECT. 3. All men have a natural and unalienable right to Freedom of wor
ship.
worship Almighty God according to the dictates of their own
consciences, and no one shall be hurt, molested or restrained
in his person, liberty or estate, for worshipping God in the
manner and season most agreeable to the dictates of his own
conscience, nor for his religious professions or sentiments,
provided he does not disturb the public peace, nor obstruct
others in their religious worship ;—and all persons demeaning All religious
sects equal.
themselves peaceably, as good members of the State, shall be

equally under the protection of the laws, and no subordination nor preference of any one sect or denomination to another shall ever be established by law, nor shall any religious test be required as a qualification for any office or trust, under this State; and all religious societies in this State, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance.

Religious tests prohibited.

Freedom of speech and publication.

SECT. 4. Every citizen may freely speak, write and publish his sentiments on any subject, being responsible for the abuse of this liberty; no laws shall be passed regulating or restraining the freedom of the press; and in prosecutions for any publication respecting the official conduct of men in public capacity, or the qualifications of those who are candidates for the suffrages of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence, and in all indictments for libels the Jury, after having received the direction of the Court, shall have a right to determine, at their discretion, the law and the fact.

Truth may be given in evidence.

Unreasonable searches.

SECT. 5. The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a special designation of the place to be searched, and the person or thing to be seized, nor without probable cause—supported by oath or affirmation.

Rights of persons accused.

SECT. 6. In all criminal prosecutions, the accused shall have a right to be heard by himself and his counsel, or either, at his election;

To demand the nature and cause of the accusation, and have a copy thereof;

To be confronted by the witnesses against him;

To have compulsory process for obtaining witnesses in his favor;

To have a speedy, public and impartial trial, and, except in trials by martial law or impeachment, by a Jury of the vicinity. He shall not be compelled to furnish or give evidence against himself, nor be deprived of his life, liberty, property or privileges, but by judgment of his peers or the law of the land.

No person to answer to a capital crime &c. but on indictment.

Exceptions.

SECT. 7. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in such cases of offences, as are usually cognizable by a justice of the peace, or in cases arising in the army or navy, or in the militia when in actual service in time of war or public danger. The Legislature shall provide by law a suitable and impartial mode of selecting juries, and their usual number and unanimity, in indictments and convictions, shall be held indispensable.

Juries.

SECT. 8. No person, for the same offence, shall be twice put in jeopardy of life or limb. Not to be put in jeopardy twice for one crime.

SECT. 9. Sanguinary laws shall not be passed : all penalties and punishments shall be proportioned to the offence : excessive bail shall not be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted. Sanguinary laws &c. prohibited.

SECT. 10. All persons, before conviction, shall be bailable, except for capital offences, where the proof is evident or the presumption great. And the privilege of the writ of *Habeas Corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it. All persons allowed bail.

SECT. 11. The Legislature shall pass no bill of attainder, *ex post facto* law, nor law impairing the obligation of contracts, and no attainder shall work corruption of blood nor forfeiture of estate. Bills of attainder &c. prohibited.

SECT. 12. Treason against this State shall consist only in levying war against it, adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court. Treason defined.

SECT. 13. The laws shall not be suspended but by the Legislature or its authority. Suspension of laws.

SECT. 14. No person shall be subject to corporal punishment under military law, except such as are employed in the army or navy, or in the militia when in actual service in time of war or public danger. Corporal punishment under military law.

SECT. 15. The people have a right at all times in an orderly and peaceable manner to assemble to consult upon the common good, to give instructions to their representatives, and to request, of either department of the government by petition or remonstrance, redress of their wrongs and grievances. Right to petition.

SECT. 16. Every citizen has a right to keep and bear arms for the common defence ; and this right shall never be questioned. To keep and bear arms.

SECT. 17. No standing army shall be kept up in time of peace without the consent of the Legislature, and the military shall, in all cases, and at all times, be in strict subordination to the civil power. Standing armies not to be kept ;

SECT. 18. No soldier shall, in time of peace be quartered in any house without the consent of the owner or occupant, nor in time of war, but in a manner to be prescribed by law. Nor soldiers to be quartered on citizens, but in time of war.

SECT. 19. Every person, for an injury done him in his person, reputation, property or immunities, shall have remedy by due course of law ; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay. Right of redress for injuries.

SECT. 20. In all civil suits, and in all controversies concerning property, the parties shall have a right to a trial Trial by jury.

CONSTITUTION OF MAINE.

by jury, except in cases where it has heretofore been otherwise practised: the party claiming the right may be heard by himself and his counsel, or either, at his election.

Private property not to be taken without compensation.

SECT. 21. Private property shall not be taken for public uses without just compensation; nor unless the public exigencies require it.

Taxes.

SECT. 22. No tax or duty shall be imposed without the consent of the people or of their Representatives in the Legislature.

Titles of nobility prohibited.

SECT. 23. No title of nobility or hereditary distinction, privilege, honor or emolument, shall ever be granted or confirmed, nor shall any office be created, the appointment to which shall be for a longer time than during good behavior.

Other rights not to be impaired.

SECT. 24. The enumeration of certain rights shall not impair nor deny others retained by the people.

ARTICLE II.

ELECTORS.

Qualification of Electors.

SECT. 1. Every male citizen of the United States of the age of twenty-one years and upwards, excepting paupers, persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for Governor, Senators and Representatives, in the town or plantation where his residence is so established; and the elections shall be by written ballot. But persons in the military, naval or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack or military place, in any town or plantation; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established.

Soldiers and seamen in the U. States service.

Students at colleges or academies.

Electors exempt from arrest on days of election,

SECT. 2. Electors shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest on the days of election, during their attendance at, going to, and returning therefrom.

And from military duty.

SECT. 3. No elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger.

Time of elections.

SECT. 4. The election of Governor, Senators and Representatives, shall be on the second Monday of September annually forever.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECT. 1. The powers of this Government shall be divided into three distinct Departments, the *Legislative*, *Executive* and *Judicial*. Powers distributed,

SECT. 2. No person or persons, belonging to one of these Departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted. And to be kept separate.

ARTICLE IV.—PART FIRST.

LEGISLATIVE POWER—HOUSE OF REPRESENTATIVES.

SECT. 1. The Legislative power shall be vested in two distinct branches, a House of Representatives, and a Senate, each to have a negative on the other, and both to be stiled the *Legislature of Maine*, and the style of their Acts and Laws, shall be, “*Be it enacted by the Senate and House of Representatives in Legislature assembled.*” Legislative power. Style.

SECT. 2. The House of Representatives shall consist of not less than one hundred nor more than two hundred members, to be elected by the qualified electors for one year from the day next preceding the annual meeting of the Legislature. The Legislature, which shall first be convened under this Constitution, shall, on or before the fifteenth day of August in the year of our Lord one thousand eight hundred and twenty one, and the Legislature, within every subsequent period of at most ten years and at least five, cause the number of the inhabitants of the State to be ascertained, exclusive of foreigners not naturalized, and Indians not taxed. The number of Representatives shall, at the several periods of making such enumeration, be fixed and apportioned among the several counties, as near as may be, according to the number of inhabitants, having regard to the relative increase of population. The number of Representatives shall, on said first apportionment, be not less than one hundred nor more than one hundred and fifty; and, whenever the number of Representatives shall be two hundred, at the next annual meetings of elections, which shall thereafter be had, and at every subsequent period of ten years, the people shall give in their votes, whether the number of Representatives shall be increased or diminished, and if a majority of votes are in favor thereof, it shall be the House of representatives elected annually, to consist of not less than 100 nor more than 200. To be apportioned once in ten years at least. Equally among the counties.

duty of the next Legislature thereafter to increase or diminish the number by the rule hereinafter prescribed.

Apportionment
among towns.

SECT. 3. Each town having fifteen hundred inhabitants may elect one representative; each town having three thousand seven hundred and fifty may elect two; each town having six thousand seven hundred and fifty may elect three; each town having ten thousand five hundred may elect four; each town having fifteen thousand may elect five, each town having twenty thousand two hundred and fifty may elect six; each town having twenty six thousand two hundred and fifty inhabitants may elect seven; but no town shall ever be entitled to more than seven representatives: and towns and plantations duly organized, not having fifteen hundred inhabitants, shall be classed, as conveniently as may be, into districts containing that number, and so as not to divide towns; and each such district may elect one representative; and, when on this apportionment the number of representatives shall be two hundred, a different apportionment shall take place upon the above principle; and, in case the fifteen hundred shall be too large or too small to apportion all the representatives to any county, it shall be so increased or diminished as to give the number of representatives according to the above rule and proportion; and whenever any town or towns, plantation or plantations not entitled to elect a representative shall determine against a classification with any other town or plantation, the Legislature may, at each apportionment of representatives, on the application of such town or plantation, authorize it to elect a representative for such portion of time and such periods, as shall be equal to its portion of representation; and the right of representation, so established, shall not be altered until the next general apportionment.

Qualifications of
a representative.

SECT. 4. No person shall be a member of the House of Representatives, unless he shall, at the commencement of the period for which he is elected, have been five years a citizen of the United States, have arrived at the age of twenty one years, have been a resident in this State one year, or from the adoption of this Constitution; and, for three months next preceding, the time of his election shall have been, and, during the period for which he is elected, shall to be a resident in the town or district which he represents.

Meetings for
choice of repre-
sentatives regu-
lated.

SECT. 5. The meetings for the choice of representatives shall be warned in due course of law by the selectmen of the several towns seven days at least before the election, and the selectmen thereof shall preside impartially at such meetings, receive the votes of all the qualified electors present, sort, count and declare them in open town meeting, and in the presence of the town clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name,

shall make a fair record thereof in the presence of the selectmen, and in open town meeting; and a fair copy of this list shall be attested by the selectmen and town clerk, and delivered by said selectmen to each representative within ten days next after such election. And the towns and plantations organized by law, belonging to any class herein provided, shall hold their meetings at the same time in the respective towns and plantations; and the town and plantation meetings in such towns and plantations shall be notified, held and regulated, the votes received, sorted, counted and declared in the same manner. And the assessors and clerks of plantations shall have all the powers, and be subject to all the duties, which selectmen and town clerks have, and are subject to by this Constitution. And the selectmen of such towns, and the assessors of such plantations, so classed, shall, within four days next after such meeting, meet at some place, to be prescribed and notified by the selectmen or assessors of the eldest town, or plantation, in such class, and the copies of said lists shall be then examined and compared; and in case any person shall be elected by a majority of all the votes, the selectmen or assessors shall deliver the certified copies of such lists to the person so elected, within ten days next after such election; and the clerks of towns and plantations respectively shall seal up copies of all such lists and cause them to be delivered into the Secretary's office twenty days at least before the first Wednesday in January annually; but in case no person shall have a majority of votes, the selectmen and assessors shall, as soon as may be, notify another meeting, and the same proceedings shall be had at every future meeting until an election shall have been effected: *Provided, That* the Legislature may by law prescribe a different mode of returning, examining and ascertaining the election of the representatives in such classes.

SECT. 6. Whenever the seat of a member shall be vacated by death, resignation, or otherwise, the vacancy may be filled by a new election. Vacancies to be filled by new elections.

SECT. 7. The House of Representatives shall choose their Speaker, Clerk and other officers. House to choose speaker, &c.

SECT. 8. The House of Representatives shall have the sole power of impeachment. To have the power of impeachment.

ARTICLE IV.—PART SECOND.

SENATE.

SECT. 1. The Senate shall consist of not less than twenty, nor more than thirty-one members, elected at the same time, Senate to consist of not less than 20 nor more than 31.

and for the same term, as the representatives, by the qualified electors of the districts, into which the State shall from time to time be divided.

State to be districted once in ten years at least.

SECT. 2. The Legislature, which shall be first convened under this Constitution, shall, on or before the fifteenth day of August in the year of our Lord one thousand eight hundred and twenty-one, and the Legislature at every subsequent period of ten years, cause the State to be divided into districts for the choice of Senators. The districts shall conform, as near as may be, to county lines, and be apportioned according to the number of inhabitants. The number of Senators shall not exceed twenty at the first apportionment, and shall at each apportionment be increased, until they shall amount to thirty-one, according to the increase in the House of Representatives.

Meetings for choice of Senators regulated.

SECT. 3. The meetings for the election of Senators shall be notified, held and regulated, and the votes received, sorted, counted, declared and recorded, in the same manner as those for Representatives. And fair copies of the lists of votes shall be attested by the selectmen and town clerks of towns, and the assessors and clerks of plantations, and sealed up in open town and plantation meetings; and the town and plantation clerks respectively shall cause the same to be delivered into the Secretary's office thirty days at least before the first Wednesday of January. All other qualified electors living in places unincorporated, who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of voting for Senators, Representatives and Governor in such town; and shall be notified by the selectmen thereof for that purpose accordingly.

Electors in unincorporated plantations.

Votes to be examined by the governor and council.

SECT. 4. The Governor and Council shall, as soon as may be, examine the returned copies of such lists, and, twenty days before the said first Wednesday of January, issue a summons to such persons, as shall appear to be elected by a majority of the votes in each district, to attend that day and take their seats.

Senate to determine on elections.

Vacancies how supplied.

SECT. 5. The Senate shall, on the said first Wednesday of January, annually, determine who are elected by a majority of votes to be Senators in each district; and in case the full number of Senators to be elected from each district shall not have been so elected, the members of the House of Representatives and such Senators, as shall have been elected, shall, from the highest numbers of the persons voted for, on said lists, equal to twice the number of Senators deficient, in every district, if there be so many voted for, elect by joint ballot the number of Senators required; and in this manner all vacancies in the Senate shall be supplied, as soon as may be, after such vacancies happen.

SECT. 6. The Senators shall be twenty-five years of age at the commencement of the term, for which they are elected, and in all other respects their qualifications shall be the same, as those of the Representatives.

Qualification of senators.

SECT. 7. The Senate shall have the sole power to try all impeachments, and when sitting for that purpose shall be on oath or affirmation, and no person shall be convicted without the concurrence of two thirds of the members present. Their judgment, however, shall not extend farther than to removal from office, and disqualification to hold or enjoy any office of honor, trust or profit under this State. But the party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

Senate to try impeachments.

Party liable to be tried and punished after.

SECT. 8. The Senate shall choose their President, Secretary and other officers.

To choose a president &c.

ARTICLE IV.—PART THIRD.

LEGISLATIVE POWER.

SECT. 1. The Legislature shall convene on the first Wednesday of January annually, and shall have full power to make and establish all reasonable laws and regulations for the defence and benefit of the people of this State, not repugnant to this Constitution, nor to that of the United States.

Legislature to meet annually.

SECT. 2. Every bill or resolution, having the force of law, to which the concurrence of both Houses may be necessary, except on a question of adjournment, which shall have passed both Houses, shall be presented to the Governor, and if he approve, he shall sign it; if not, he shall return it with his objections to the House, in which it shall have originated, which shall enter the objections at large on its journals, and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass it, it shall be sent, together with the objections, to the other House, by which it shall be reconsidered, and, if approved by two thirds of that House, it shall have the same effect, as if it had been signed by the Governor: but in all such cases, the votes of both Houses shall be taken by yeas and nays, and the names of the persons, voting for and against the bill or resolution, shall be entered on the journals of both Houses respectively. If the bill or resolution shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect, as if he had signed it, unless the Legislature by their adjournment

Governor to sign their acts.

If he disapprove—proceedings in such case.

To return the bill in five days.

prevent its return, in which case it shall have such force and effect, unless returned within three days after their next meeting.

Each house to judge of elections &c.; majority a quorum

SECT. 3. Each House shall be the judge of the elections and qualifications of its own members, and a majority shall constitute a quorum to do business ; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each House shall provide.

May punish and expel members &c.

SECT. 4. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member, but not a second time for the same cause.

To keep a journal.

Yeas and nays.

SECT. 5. Each House shall keep a journal, and from time to time publish its proceedings, except such parts as in their judgment may require secrecy ; and the yeas and nays of the members of either House of any question, shall, at the desire of one fifth of those present, be entered on the journals.

May punish for contempt.

SECT. 6. Each House, during its session, may punish by imprisonment any person, not a member, for disrespectful or disorderly behavior in its presence, for obstructing any of its proceedings, threatening, assaulting or abusing any of its members for any thing said, done or doing in either House : *Provided*, that no imprisonment shall extend beyond the period of the same session.

Compensation.

Travelling expenses.

SECT. 7. The Senators and Representatives shall receive such compensation, as shall be established by law ; but no law increasing their compensation shall take effect during the existence of the Legislature, which enacted it. The expenses of the members of the House of Representatives in travelling to the Legislature, and returning therefrom, once in each session and no more, shall be paid by the State out of the public Treasury to every member, who shall seasonably attend, in the judgment of the House, and does not depart therefrom without leave.

Members exempted from arrest.

Freedom of debate.

Either house may originate bills.

Exceptions—money bills.

SECT. 8. The Senators and Representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at, going to, and returning from each session of the Legislature, and no member shall be liable to answer for any thing spoken in debate in either House, in any court or place elsewhere.

SECT. 9. Bills, orders or resolutions, may originate in either House, and may be altered, amended or rejected in the other ; but all bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other cases : *Provided*, that they shall not, under color of amendment, introduce any new matter, which does not relate to raising a revenue.

SECT. 10. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this state, which shall have been created, or the emoluments of which increased during such term, except such offices as may be filled by elections by the people : *Provided*, That this prohibition shall not extend to the members of the first Legislature. Members not to be appointed to certain offices. Proviso.

SECT. 11. No member of Congress, nor person holding any office under the United States, (post officers excepted) nor office of profit under this State, Justices of the Peace, Notaries Public, Coroners and officers of the militia excepted, shall have a seat in either House during his being such member of Congress, or his continuing in such office. Persons disqualified to be members.

SECT. 12. Neither House shall, during the session, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the Houses shall be sitting. Adjournments.

ARTICLE V.—PART FIRST.

EXECUTIVE POWER.

SECT. 1. The supreme executive power of this State shall be vested in a Governor.

SECT. 2. The Governor shall be elected by the qualified electors, and shall hold his office one year from the first Wednesday of January in each year. Elected for one year.

SECT. 3. The meetings for election of Governor shall be notified, held and regulated, and votes shall be received, sorted, counted, declared and recorded, in the same manner as those for Senators and Representatives. They shall be sealed and returned into the Secretary's office in the same manner, and at the same time, as those for Senators. And the Secretary of State for the time being shall, on the first Wednesday of January, then next, lay the lists before the Senate and House of Representatives to be by them examined, and, in case of a choice by a majority of all the votes returned, they shall declare and publish the same. But, if no person shall have a majority of votes, the House of Representatives shall, by ballot, from the persons having the four highest numbers of votes on the lists, if so many there be, elect two persons, and make return of their names to the Senate, of whom the Senate shall, by ballot, elect one, who shall be declared the Governor. Meetings for the choice of Governor regulated. Votes to be returned to Secretary of State's office. If there be no choice, provision in such case.

SECT. 4. The Governor shall, at the commencement of his term, be not less than thirty years of age ; a natural born citizen of the United States, have been five years, or from Qualifications of Governor.

the adoption of this Constitution, a resident of the State; and at the time of his election and during the term, for which he is elected, be a resident of said State.

Disqualifica-
tions.

SECT. 5. No person holding any office or place under the United States, this State, or any other power, shall exercise the office of Governor.

Compensation.

SECT. 6. The Governor shall, at stated times, receive for his services a compensation, which shall not be increased or diminished during his continuance in office.

Commander in
chief of the Mi-
litia.

SECT. 7. He shall be commander in chief of the army and navy of the State, and of the militia, except when called into the actual service of the United States; but he shall not march nor convey any of the citizens out of the State without their consent, or that of the Legislature, unless it shall become necessary, in order to march or transport them from one part of the State to another for the defence thereof.

Not to march
the Militia out
the State.

With the advice
of Council to
appoint offi-
cers.

SECT. 8. He shall nominate, and, with the advice and consent of the Council, appoint all judicial officers, the Attorney General, the Sheriffs, Coroners, Registers of Probate, and Notaries Public; and he shall also nominate, and with the advice and consent of the Council, appoint all other civil and military officers, whose appointment is not by this Constitution, or shall not by law be otherwise provided for; and every such nomination shall be made seven days, at least, prior to such appointment.

To communicate
information to
the Legislature.

SECT. 9. He shall from time to time give the Legislature information of the condition of the State, and recommend to their consideration such measures, as he may judge expedient.

May require in-
formation of any
officer.

SECT. 10. He may require information from any military officer, or any officer in the executive department, upon any subject relating to the duties of their respective offices.

To have the
power of par-
doning.

SECT. 11. He shall have power, with the advice and consent of the Council, to remit, after conviction, all forfeitures and penalties, and to grant reprieves and pardons, except in cases of impeachment.

To see that the
laws are enact-
ed.

SECT. 12. He shall take care that the laws be faithfully executed.

To convene the
legislature on
extraordinary
occasions and
adjourn them in
case of disagree-
ment.

SECT. 13. He may, on extraordinary occasions, convene the Legislature; and in case of disagreement between the two Houses with respect to the time of adjournment, adjourn them to such time, as he shall think proper, not beyond the day of the next annual meeting; and if, since the last adjournment, the place where the Legislature were next to convene shall have become dangerous from an enemy or contagious sickness, may direct the session to be held at some other convenient place within the State.

SECT. 14. Whenever the office of Governor shall become vacant by death, resignation, removal from office or otherwise, the President of the Senate shall exercise the office of Governor until another Governor shall be duly qualified ; and in case of the death, resignation, removal from office or other disqualification of the President of the Senate, so exercising the office of Governor, the Speaker of the House of Representatives shall exercise the office, until a President of the Senate shall have been chosen ; and when the office of Governor, President of the Senate, and Speaker of the House shall become vacant, in the recess of the Senate, the person, acting as Secretary of State for the time being, shall by proclamation convene the Senate, that a President may be chosen to exercise the office of Governor. And whenever either the President of the Senate, or Speaker of the House shall so exercise said office, he shall receive only the compensation of Governor, but his duties as President or Speaker shall be suspended ; and the Senate or House, shall fill the vacancy, until his duties as Governor shall cease.

Vacancy how supplied.

ARTICLE V.—PART SECOND.

COUNCIL.

SECT. 1. There shall be a Council, to consist of seven persons, citizens of the United States, and residents of this State, to advise the Governor in the executive part of government, whom the Governor shall have full power, at his discretion, to assemble ; and he, with the Counsellors, or a majority of them, may from time to time, hold and keep a Council, for ordering and directing the affairs of State according to law.

Council to consist of seven.

SECT. 2. The Counsellors shall be chosen annually, on the first Wednesday of January, by joint ballot of the Senators and Representatives in Convention ; and vacancies, which shall afterwards happen, shall be filled in the same manner ; but not more than one Counsellor shall be elected from any district, prescribed for the election of Senators ; and they shall be privileged from arrest in the same manner, as Senators and Representatives.

Counsellors how chosen.

SECT. 3. The resolutions and advice of Council shall be recorded in a register, and signed by the members agreeing thereto, which may be called for by either House of the Legislature ; and any Counsellor may enter his dissent to the resolution of the majority.

Journal to be kept of their proceedings.

Persons disqualified to be Counsellors.

Not to be appointed to any office.

SECT. 4. No member of Congress, or of the Legislature of this State, nor any person holding any office under the United States, (post officers excepted) nor any civil officers under this State, (Justices of the Peace and Notaries Public excepted) shall be Counsellors. And no Counsellor shall be appointed to any office during the time, for which he shall have been elected.

ARTICLE V.—PART THIRD.

SECRETARY.

Secretary how chosen.

SECT. 1. The Secretary of State shall be chosen annually, at the first session of the Legislature, by joint ballot of the Senators and Representatives in Convention.

To keep the records of the State.

SECT. 2. The records of the State shall be kept in the office of the Secretary, who may appoint his deputies, for whose conduct he shall be accountable.

To attend the Governor and Council,

SECT. 3. He shall attend the Governor and Council, Senate and House of Representatives, in person or by his deputies, as they shall respectively require.

And to keep the records of the government.

SECT. 4. He shall carefully keep and preserve the records of all the official acts and proceedings of the Governor and Council, Senate and House of Representatives, and, when required, lay the same before either branch of the Legislature, and perform such other duties as are enjoined by this Constitution, or shall be required by law.

ARTICLE V.—PART FOURTH.

TREASURER.

Treasurer how chosen; ineligible for more than five years in succession.

SECT. 1. The Treasurer shall be chosen annually, at the first session of the Legislature, by joint ballot of the Senators, and Representatives in Convention, but shall not be eligible more than five years successively.

To give bond.

SECT. 2. The Treasurer shall, before entering on the duties of his office, give bond to the State with sureties, to the satisfaction of the Legislature, for the faithful discharge of his trust.

Not to engage in business of trade, &c.

SECT. 3. The Treasurer shall not, during his continuance in office, engage in any business of trade or commerce, or as a broker, nor as an agent or factor for any merchant or trader.

No money to be drawn but by warrant, &c.

SECT. 4. No money shall be drawn from the Treasury, but by warrant from the Governor and Council, and in conse-

quence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money, shall be published at the commencement of the annual session of the Legislature.

ARTICLE VI.

JUDICIAL POWER.

SECT. 1. The Judicial power of this state shall be vested in a Supreme Judicial Court, and such other courts as the Legislature shall from time to time establish. Supreme and other Courts.

SECT. 2. The Justices of the Supreme Judicial Court shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office, but they shall receive no other fee or reward. Compensation.

SECT. 3. They shall be obliged to give their opinion upon important questions of law, and upon solemn occasions, when required by the Governor, Council, Senate or House of Representatives. To give opinion on questions of law to the Governor, &c.

SECT. 4. All Judicial officers, except Justices of the Peace, shall hold their offices during good behavior, but not beyond the age of seventy years. Tenure of Judicial offices.

SECT. 5. Justices of the Peace and Notaries Public, shall hold their offices during seven years if they so long behave themselves well, at the expiration of which term, they may be reappointed or others appointed, as the public interest may require. Justices of the Peace and Notaries.

SECT. 6. The Justices of the Supreme Judicial Court shall hold no office under the United States, nor any state, nor any other office under this state, except that of Justice of the Peace. Justices of Supreme Judicial Court to hold no other office.

ARTICLE VII.

MILITARY.

SECT. 1. The captains and subalterns of the Militia shall be elected by the written votes of the members of their respective companies. The field officers of regiments by the written votes of the captains and subalterns of their respective regiments. The Brigadier Generals in like manner, by the field officers of their respective brigades. Officers, by whom elected.

SECT. 2. The Legislature shall, by law, direct the manner of notifying the electors, conducting the elections, and making the returns to the Governor of the officers elected; and, if the Notify electors, &c.

electors shall neglect or refuse to make such elections, after being duly notified according to law, the Governor shall appoint suitable persons to fill such offices.

Adjutant General, &c. Major Generals, &c.

SECT. 3. The Major Generals shall be elected by the Senate and House of Representatives, each having a negative on the other. The Adjutant General and Quarter-master General shall be appointed by the Governor and Council; but the Adjutant General shall perform the duties of Quarter-master General, until otherwise directed by law. The Major Generals and Brigadier Generals, and the commanding officers of regiments and battalions shall appoint their respective staff officers; and all military officers shall be commissioned by the Governor.

Organization of the Militia.

SECT. 4. The Militia, as divided into divisions, brigades, regiments, battalions and companies pursuant to the laws now in force, shall remain so organized, until the same shall be altered by the Legislature.

Persons who may be exempted from military duty.

SECT. 5. Persons of the denominations of Quakers and Shakers, Justices of the Supreme Judicial Court and Ministers of the Gospel may be exempted from military duty, but no other person of the age of eighteen and under the age of forty-five years, excepting officers of the Militia, who have been honorably discharged, shall be so exempted, unless he shall pay an equivalent to be fixed by law.

ARTICLE VIII.

LITERATURE.

Legislature to require of towns to support public schools.

A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to promote this important object, the Legislature are authorised, and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for

May endow colleges, &c.

the support and maintenance of public schools; and it shall further be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorise, all academies, colleges and seminaries of learning within the State: *Provided*, That no donation, grant or endowment shall at any time be made by the Legislature, to any Literary Institution now established, or which may hereafter be established, unless, at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to, alter, limit or restrain any of the powers vested in, any such literary institution, as shall be judged necessary to promote the best interests thereof.

Proviso.

GENERAL PROVISIONS.

SECT. 3. All Commissions shall be in the name of the State, signed by the Governor, attested by the Secretary or his deputy, and have the seal of the State thereto affixed.

Elections on the first Wednesday of January may be adjourned from day to day.

SECT. 4. And in case the elections, required by this Constitution on the first Wednesday of January annually, by the two Houses of the Legislature, shall not be completed on that day, the same may be adjourned from day to day, until completed, in the following order : the vacancies in the Senate shall first be filled ; the Governor shall then be elected, if there be no choice by the people ; and afterwards the two Houses shall elect the Council.

Every civil officer may be removed by impeachment or address.

SECT. 5. Every person holding any civil office under this State, may be removed by impeachment, for misdemeanor in office ; and every person holding any office, may be removed by the Governor with the advice of the Council, on the address of both branches of the Legislature. But before such address shall pass either House, the causes of removal shall be stated and entered on the journal of the House in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defence.

Tenure of office.

SECT. 6. The tenure of all offices, which are not or shall not be otherwise provided for, shall be during the pleasure of the Governor and Council.

Valuation.

SECT. 7. While the public expences shall be assessed on polls and estates, a general valuation shall be taken at least once in ten years.

Real Estate to be taxed according to its value.

SECT. 8. All taxes upon real estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof.

ARTICLE X.

SCHEDULE.

Meeting of first Legislature.

Elections for 1820.

SECT. 1. The first Legislature shall meet on the last Wednesday in May next. The elections on the second Monday in September annually shall not commence until the year one thousand eight hundred and twenty one, and in the mean time the election for Governor, Senators and Representatives shall be on the first Monday in April, in the year of our Lord one thousand eight hundred and twenty, and at this election, the same proceedings shall be had as are required at the elections, provided for in this Constitution on the second Monday in September annually, and the lists of the votes for the Governor and Senators shall be transmitted, by the town and plantation clerks respectively, to the Secretary of State *pro tempore*, seventeen days at least before the last Wednesday in May next, and the President of the Convention shall, in presence of the Secretary of State, *pro tempore* open and examine the attested copies of said lists, so returned for Senators, and shall have all

the powers, and be subject to all the duties, in ascertaining, notifying, and summoning the Senators, who appear to be elected, as the Governor and council have, and are subject to, by this Constitution: *Provided*, He shall notify said Senators fourteen days at least before the last Wednesday in May, and vacancies shall be ascertained and filled in the manner herein provided; and the Senators to be elected on the said first Monday of April, shall be apportioned as follows: Senators apportioned,

The County of York shall elect three.

The County of Cumberland shall elect three.

The County of Lincoln shall elect three.

The County of Hancock shall elect two.

The County of Washington shall elect one.

The County of Kennebec shall elect three.

The County of Oxford shall elect two.

The County of Somerset shall elect two.

The County of Penobscot shall elect one.

And the members of the House of Representatives shall be elected, ascertained, and returned in the same manner as herein provided at elections on the second Monday of September, and the first House of Representatives shall consist of the following number, to be elected as follows: And representatives.

COUNTY OF YORK.

The towns of York and Wells may *each* elect two representatives; and each of the remaining towns may elect one. York.

COUNTY OF CUMBERLAND.

The town of Portland may elect three representatives; North-Yarmouth, two; Brunswick, two; Gorham, two; Freeport and Pownal, two; Raymond and Otisfield, one; Bridgton, Baldwin and Harrison, one; Poland and Danville, one; and each remaining town one. Cumberland.

COUNTY OF LINCOLN.

The towns of Georgetown and Phipsburg, may elect one representative; Lewiston and Wales, one; St. George, Cushing and Friendship, one; Hope and Appleton Ridge, one; Jefferson, Putnam and Patricks town plantation, one; Alna and Whitfield, one; Montville, Palermo, and Montville plantation, one; Woolwich and Dresden, one; and each remaining town one. Lincoln.

COUNTY OF HANCOCK.

The town of Bucksport may elect one representative; Deer Island, one; Castine and Brooksville, one; Orland and Penobscot, one; Mount Desert and Eden, one; Vinalhaven and Isleborough, one; Sedgwick and Bluehill, one; Goulds- Hancock.

borough, Sullivan and plantations No. 8 and 9 north of Sullivan, one ; Surry, Ellsworth, Trenton and plantation of Mariaville, one ; Lincolnville, Searsmont and Belmont, one ; Belfast and Northport, one ; Prospect and Swanville, one ; Frankfort and Monroe, one ; Knox, Brooks, Jackson and Thorndike, one.

Washington.

COUNTY OF WASHINGTON.

The towns of Steuben, Cherryfield and Harrington, may elect one representative ; Addison, Columbia and Jonesborough, one ; Machias, one ; Lubec, Dennysville, Plantations No. 9, No. 10, No. 11, No. 12, one ; Eastport, one ; Perry, Robinston, Calais, Plantations No. 3, No. 6, No. 7, No. 15, and No. 16, one.

Kennebec.

COUNTY OF KENNEBEC.

The towns of Belgrade and Dearborn may elect one representative ; Chesterville, Vienna and Rome, one ; Wayne and Fayette, one ; Temple and Wilton, one ; Winslow and China, one ; Fairfax and Freedom, one ; Unity, Jop and 25 mile pond plantation, one ; Harlem and Malta, one ; and each remaining town one.

Oxford

COUNTY OF OXFORD.

The towns of Dixfield, Mexico, Weld and Plantations Nos. 1 and 4, may elect one representative ; Jay and Hartford, one ; Livermore, one ; Rumford, East Andover and Plantations Nos. 7 and 8, one ; Turner, one ; Woodstock, Paris and Greenwood, one ; Hebron and Norway, one ; Gilead, Bethel, Newry, Albany and Howard's gore, one ; Porter, Hiram and Brownfield, one ; Waterford, Sweden and Lovell, one ; Denmark, Fryeburg and Fryeburg addition, one ; Buckfield and Sumner, one.

Somerset.

COUNTY OF SOMERSET.

The town of Fairfield may elect one representative ; Norridgewock and Bloomfield, one ; Starks and Mercer, one ; Industry, Strong and New-Vineyard, one ; Avon, Phillips, Freeman and Kingfield, one ; Anson, New-Portland, Embden, and Plantation No. 1, one ; Canaan, Warsaw, Palmyra, St. Albans and Corinna, one ; Madison, Solon, Bingham, Moscow and Northhill, one ; Cornville, Athens, Harmony, Ripley, and Warrenstown, one.

Penobscot.

COUNTY OF PENOBSCOT.

The towns of Hampden and Newburg may elect one representative ; Orrington, Brewer, and Eddington and Plantations adjacent on the east side of Penobscot river, one ; Bangor,

Orono and Sunkhaze Plantation, one; Dixmont, Newport, Carmel, Hermon, Stetson, and Plantation No. 4, in the 6th range, one; Levant, Corinth, Exeter, New-Charlestown, Blakesburg, Plantation No. 1 in 3d range, and Plantation No. 1 in 4th range, one; Dexter, Garland, Guilford, Sangerville, and Plantation No. 3, in 6th range, one; Atkinson, Sebec, Foxcroft, Brownville, Williamsburg, Plantation No. 1, in 7th range, and Plantation No. 3, in 7th range, one.

And the Secretary of State *pro tempore* shall have the same powers, and be subject to the same duties, in relation to the votes for Governor, as the Secretary of State has, and is subject to, by this Constitution: and the election of Governor shall, on the said last Wednesday in May, be determined and declared, in the same manner, as other elections of Governor are by this Constitution; and in case of vacancy in said office, the President of the Senate, and Speaker, of the House of Representatives, shall exercise the office as herein otherwise provided, and the Counsellors, Secretary and Treasurer, shall also be elected on said day, and have the same powers, and be subject to the same duties, as is provided in this Constitution; and in case of the death or other disqualification of the President of this Convention, or of the Secretary of State *pro tempore*, before the election and qualification of the Governor or Secretary of State under this Constitution, the persons to be designated by this Convention at their session in January next, shall have all the powers and perform all the duties, which the President of this Convention, or the Secretary *pro tempore*, to be by them appointed, shall have and perform.

Powers and duties of Secretary of State *pro tem.* in relation to the votes.

SECT. 2. The period for which the Governor, Senators and Representatives, Counsellors, Secretary and Treasurer, first elected or appointed, are to serve in their respective offices and places, shall commence on the last Wednesday in May, in the year of our Lord one thousand eight hundred and twenty, and continue until the first Wednesday of January, in the year of our Lord one thousand eight hundred and twenty two.

Duration of the first Legislature

SECT. 3. All laws now in force in this state, and not repugnant to this Constitution, shall remain, and be in force, until altered or repealed by the Legislature, or shall expire by their own limitation.

Laws now in force continue until repealed.

SECT. 4. The Legislature, whenever two thirds of both houses shall deem it necessary, may propose amendments to this Constitution; and when any amendment shall be so agreed upon, a resolution shall be passed and sent to the selectmen of the several towns, and the assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at their next annual meetings in the month of September, to give in their votes on the question, whether such

Constitution how it may be amended.

amendment shall be made; and if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this Constitution.

Persons in office
to continue to
hold their offices.

SECT. 5. All officers provided for in the sixth section of an act of the Commonwealth of Massachusetts, passed on the nineteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled "An act relating to the Separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and Independent State," shall continue in office as therein provided; and the following provisions of said act shall be a part of this Constitution, subject however to be modified or annulled as therein is prescribed, and not otherwise, to wit:

Part of a Law of
Massachusetts
made a part of
the constitution.

"SECT. 1. Whereas it has been represented to this Legislature, that a majority of the people of the District of Maine are desirous of establishing a separate and Independent Government within said District: Therefore,

"Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the consent of this Commonwealth be, and the same is hereby given, that the District of Maine may be formed and erected into a separate and Independent State, if the people of the said District shall in the manner, and by the majority hereinafter mentioned, express their consent and agreement thereto, upon the following terms and conditions: And, provided the Congress of the United States shall give its consent thereto, before the fourth day of March next: which terms and conditions are as follows, viz.

*"First. All the lands and buildings belonging to the Commonwealth, within Massachusetts Proper, shall continue to belong to said Commonwealth, and all the lands belonging to the Commonwealth, within the District of Maine, shall belong, the one half thereof to the said Commonwealth, and the other half thereof, to the State to be formed within the said District, to be divided as is hereinafter mentioned; and the lands within the said District, which shall belong to the said Commonwealth, shall be free from taxation, while the title to the said lands remains in the Commonwealth; and the rights of the Commonwealth to their lands, within said District, and the remedies for the recovery thereof, shall continue the same, within the proposed State, and in the Courts thereof, as they now are within the said Commonwealth, and in the Courts thereof; for which purposes, and for the maintenance of its rights, and recovery of its lands, the said Commonwealth shall be entitled to all other proper and legal remedies, and may appear in the Courts of the proposed State and in the Courts of the United States, holden therein; and all rights of action for, or entry into lands, and of actions upon bonds, for the breach of the performance of the condition of settling duties, so called, which have accrued, or may accrue, shall remain in this Commonwealth, to be enforced, commuted, released, or otherwise disposed of, in such manner as this Commonwealth may hereafter, determine: *Provided however, That, whatever this Commonwealth may hereafter receive or obtain on account thereof if any thing, shall, after deducting all reasonable charges relating thereto, be divided, one third part thereof to the new State, and two third parts thereof to this Commonwealth.**

"Second. All the arms which have been received by this Commonwealth from the United States, under the law of Congress, entitled, "An act making provision for arming and equipping the whole body of militia of the United States, passed April the twenty-third, one thousand eight hundred and eight, shall, as soon as the said District shall become a sep-

arate State, be divided between the two States, in proportion to the returns of the militia, according to which, the said arms have been received from the United States, as aforesaid.

“Third. All money, stock, or other proceeds, hereafter derived from the United States, on account of the claim of this Commonwealth, for disbursements made, and expenses incurred, for the defence of the State, during the late war with Great Britain, shall be received by this Commonwealth, and when received, shall be divided between the two States, in the proportion of two thirds to this Commonwealth, and one third to the new State.

“Fourth. All other property, of every description, belonging to the Commonwealth shall be holden and receivable by the same, as a fund and security, for all debts, annuities, and Indian subsidies, or claims due by said Commonwealth; and within two years after the said District shall have become a separate State, the Commissioners to be appointed, as hereinafter provided, if the said States cannot otherwise agree, shall assign a just portion of the productive property, so held by said Commonwealth as an equivalent and indemnification to said Commonwealth, for all such debts, annuities, or Indian subsidies or claims, which may then remain due, or unsatisfied: and all the surplus of the said property, so holden, as aforesaid, shall be divided between the said Commonwealth and the said District of Maine, in the proportion of two thirds to the said Commonwealth, and one third to the said District—and if, in the judgment of the said Commissioners, the whole of said property, so held, as a fund and security, shall not be sufficient indemnification for the purpose, the said District shall be liable for and shall pay to said Commonwealth, one third of the deficiency.

“Fifth. The new State shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this Commonwealth, towards the Indians within said District of Maine, whether the same arise from treaties, or otherwise; and for this purpose shall obtain the assent of said Indians, and their release to this Commonwealth of claims and stipulations arising under the treaty at present existing between the said Commonwealth and said Indians; and as an indemnification to such new State, therefor, this Commonwealth, when such arrangements shall be completed, and the said duties and obligations assumed, shall pay to said new State, the value of thirty thousand dollars, in manner following, viz.: The said Commissioners shall set off by metes and bounds, so much of any part of the land, within the said District, falling to this Commonwealth, in the division of the public lands, hereinafter provided for, as in their estimation shall be of the value of thirty thousand dollars; and this Commonwealth shall, thereupon, assign the same to the said new State, or in lieu thereof, may pay the sum of thirty thousand dollars at its election; which election of the said Commonwealth, shall be made within one year from the time that notice of the doings of the Commissioners, on this subject, shall be made known to the Governor and Council; and if not made within that time, the election shall be with the new State.

“Sixth. Commissioners, with the powers and for the purposes mentioned in this act, shall be appointed in manner following: The Executive authority of each State shall appoint two; and the four so appointed, or the major part of them, shall appoint two more; but if they cannot agree in the appointment, the Executive of each State shall appoint one in addition; not however, in that case, to be a citizen of its own State. And any vacancy happening with respect to the Commissioners, shall be supplied in the manner provided for their original appointment; and, in addition to the powers herein before given to said Commissioners, they shall have full power and authority to divide all the public lands within the District, between the respective States, in equal shares, or moieties, in severalty, having regard to quantity, situation and quality; they shall

determine what lands shall be surveyed and divided, from time to time, the expense of which surveys, and of the Commissioners, shall be borne equally by the two States. They shall keep fair records of their doings, and of the surveys made by their direction, copies of which records, authenticated by them, shall be deposited from time to time, in the archives of the respective States; transcripts of which, properly certified, may be admitted in evidence, in all questions touching the subject to which they relate. The Executive authority of each State may revoke the power of either or both its commissioners; having, however, first appointed a substitute, or substitutes, and may fill any vacancy happening with respect to its own Commissioners; four of said Commissioners shall constitute a quorum, for the transaction of business; their decision shall be final, upon all subjects within their cognizance. In case said commission shall expire, the same not having been completed, and either State shall request the renewal or filling up of the same, it shall be renewed or filled up in the same manner, as is herein provided for filling the same, in the first instance, and with the like powers; and if either State shall, after six months' notice, neglect or refuse to appoint its Commissioners, the other may fill up the whole commission.

“Seventh. All grants of land, franchises, immunities, corporate or other rights, and all contracts for, or grants of land not yet located which have been or may be made by the said Commonwealth, before the separation of said District shall take place, and having or to have effect within the said District, shall continue in full force, after the said District shall become a separate State. But the grant which has been made to the President and Trustees of Bowdoin College, out of the tax laid upon the Banks, within this Commonwealth, shall be charged upon the tax upon the Banks within the said District of Maine, and paid according to the terms of said grant; and the President and Trustees, and the Overseers of said College, shall have, hold and enjoy their powers and privileges in all respects; so that the same shall not be subject to be altered, limited, annulled or restrained, except by judicial process, according to the principles of law; and in all grants hereafter to be made, by either State, of unlocated land within the said District, the same reservations shall be made for the benefit of Schools, and of the Ministry, as have heretofore been usual, in grants made by this Commonwealth. And all lands heretofore granted by this Commonwealth, to any religious, literary, or eleemosynary corporation, or society, shall be free from taxation, while the same continues to be owned by such corporation, or society.

“Eighth. No laws shall be passed in the proposed State, with regard to taxes, actions, or remedies at law, or bars, or limitations thereof, or otherwise making any distinction between the lands and rights of property of proprietors not resident in, or not citizens of said proposed State, and the lands and rights of property of the citizens of the proposed State, resident therein; and the rights and liabilities of all persons, shall, after the said separation, continue the same as if the said District was still a part of this Commonwealth, in all suits pending, or judgments remaining unsatisfied on the fifteenth day of March next, where the suits have been commenced in Massachusetts Proper, and process has been served within the District of Maine; or commenced in the District of Maine, and process has been served in Massachusetts Proper, either by taking bail, making attachments, arresting and detaining persons, or otherwise, where execution remains to be done; and in such suits, the Courts within Massachusetts Proper, and within the proposed State, shall continue to have the same jurisdiction as if the said District had still remained a part of the Commonwealth. And this Commonwealth shall have the same remedies within the proposed State, as it now has, for the collection of all taxes, bonds, or debts, which may be assessed, due, made, or contracted, by, to, or with the Commonwealth, on or before the said fifteenth day of March, within the said District of Maine; and all officers within Massa

chusets Proper and the District of Maine shall conduct themselves accordingly.

"*Ninth.* These terms and conditions, as here set forth, when the said District shall become a separate and Independent State, shall, *ipso facto* be incorporated into, and become and be a part of any Constitution, provisional or other, under which the Government of the said proposed State, shall, at any time hereafter, be administered ; subject however, to be modified, or annulled by the agreement of the Legislature of both the said States ; but by no other power or body whatsoever."

SEC. 6. This Constitution shall be enrolled on parchment, deposited in the Secretary's office, and be the supreme law of the State, and printed copies thereof shall be prefixed to the books containing the laws of this State.

Constitution to
be enrolled on
parchment.

Done in Convention, October 29, 1819.

WILLIAM KING, *President*

of the Convention and member from Bath.

COUNTY OF YORK.

YORK,	Elihu Bragdon,
	David Wilcox.
Kittery,	Alexander Rice.
Wells,	Joseph Thomas.
Berwick,	William Hobbs,
	Nathaniel Hobbs,
	Richard F. Cutts.
Biddeford,	George Thacher,
	Seth Spring.
Arundel,	Simon Nowell.
Saco,	William Moody,
	Ether. Shepley,
	George Thacher, junior.
Lebanon,	David Legrow.
Buxton,	Gideon Elden,
	Josiah Paine,
	Edmund Woodman.
Lyman,	John Low,
	John Burbank.
Shapleigh,	John Leighton.
Parsonsfield,	David Marsten,
	Abner Keazer.
Waterborough,	Samuel Bradeen,
	Henry Hobbs.
Limington,	David Boyd.
Cornish,	Thomas A. Johnson.
ALFRED,	John Holmes.
Hollis,	Ellis B. Usher,
	Timothy Hodgdon.
South-Berwick,	Benjamin Green.
Limerick,	John Burnham.

CUMBERLAND.

<i>Scarborough,</i>	Benjamin Larrabee, junior,
<i>North-Yarmouth,</i>	Joseph Fogg.
	William Buxton,
<i>Falmouth,</i>	Ephraim Sturdevant,
	Jeremiah Buxton.
<i>Brunswick,</i>	Peter M. Knight,
	Nathan Bucknam.
	Robert D. Dunning,
<i>Harpswell,</i>	Jonathan Page,
<i>Gorham,</i>	Benjamin Titcomb.
	Stephen Purrington.
<i>Cape-Elizabeth,</i>	Lathrop Lewis,
<i>New-Gloucester,</i>	Joseph Adams,
	James Irish.
<i>Gray,</i>	Ebenezer Thrasher.
<i>Standish,</i>	Joseph E. Foxcroft,
PORTLAND,	Isaac Gross.
	Joseph McLellan.
<i>Freeport,</i>	Theodore Mussey.
<i>Durham,</i>	Albion K. Parris,
	William P. Preble.
<i>Bridgton,</i>	Solomon Dennison.
<i>Poland,</i>	Secomb Jordan,
<i>Minot,</i>	Allen H. Cobb.
	Phineas Ingalls.
<i>Danville,</i>	Josiah Dunn, junior.
<i>Baldwin,</i>	Asaph Howard,
<i>Raymond,</i>	Chandler Freeman.
<i>Pownal,</i>	Joseph Roberts.
<i>Westbrook,</i>	Lot Davis.
	Zachariah Leach.
	Isaac Cushman.
	Silas Estes,
	Thomas Slemonds,
<i>Harrison,</i>	John Jones.
	Amos Thomes.

LINCOLN.

<i>Georgetown,</i>	Benjamin Riggs,
<i>New-Castle,</i>	Ebenezer Farley,
<i>Woolwich,</i>	Ebenezer Delano.
WISCASSET,	Abiel Wood,
	Warren Rice.
<i>Bowdoinham,</i>	Ebenezer Herrick,
	Elihu Hatch.
TOPSHAM,	Nathaniel Green.
<i>Boothbay,</i>	Daniel Rose,
	John McKown,

<i>Bristol</i>	Samuel Tucker, William M'Clintock, John Fosset.
<i>Waldoborough,</i>	Joshua Head, Isaac G. Reed, Jacob Ludwig, Junior.
<i>Edgcomb,</i> WARREN,	Stephen Parsons. John Miller, Cyrus Eaton.
<i>Thomaston,</i>	Isaac Barnard, John Spear.
<i>Bath,</i>	Joshua Wingate, junior, Benjamin Ames.
<i>Union,</i>	Robert Foster.
<i>Bowdoin,</i>	Joseph Carr.
<i>Nobleborough,</i>	Ephraim Rollins.
<i>Cushing,</i>	Edward Killeran.
<i>Camden,</i>	Nathaniel Martin.
<i>Dresden,</i>	Isaac Lillie.
<i>Lewiston,</i>	John Herrick.
<i>Litchfield,</i>	John Neal, David C. Burr.
<i>Lisbon,</i>	Nathaniel Eames, James Small.
<i>St. George,</i>	Joel Miller.
<i>Hope,</i>	Fergus M'Claine.
<i>Palermo,</i>	Thomas Eastman.
<i>Montville,</i>	Cyrus Davis.
<i>Jefferson,</i>	Jesse Rowell.
<i>Friendship,</i>	Melzer Thomas.
<i>Whitfield,</i>	Joseph Bailey.
<i>Putnam,</i>	Mark Hatch.
<i>Alna,</i>	John Dole.
<i>Wales,</i>	Joseph Small.

KENNEBEC.

<i>Hallowell,</i>	Samuel Moody, William H. Page, Benjamin Dearborn.
<i>Winthrop,</i>	Alexander Belcher, Daniel Campbell.
<i>Vassalborough,</i>	Samuel Redington, Abiel Getchel.
<i>Winslow,</i>	William Swan.
<i>Pittston,</i>	Eli Young.
<i>Green,</i>	Luther Robbins.
<i>Readfield,</i>	John Hubbard, Samuel Currier.

*Monmouth,**Mount-Vernon,
Sidney,**Farmington,**New-Sharon,
Clinton,**Fayette,
Belgrade,
Harlem,
AUGUSTA,**Wayne,
Leeds,
Chester ville,
Vienna,
Waterville,**Gardiner,**Temple,
Wilton,
Rome,
Fairfax,
Unity,
Malta,
Freedom,
Joy,
China,**Belfast,
Islesborough,
Deer-Isle,**Bluehill,
Trenton,
Sullivan,
Gouldsborough,
Vinalhaven,
Frankfort,**Bucksport,
Prospect,
CASTINE,
Northport,
Eden,**John Chandler,
Simon Dearborn, junior.
David McGaffey.
Ambrose Howard,
Reuel Howard.
Nathan Cutler,
Jabez Gay.
Christopher Dyer.
Herbert Moore.
Charles Smith.
Elias Taylor.
William Pullen.
Daniel Cony,
Joshua Gage,
James Bridge.
Joseph Lamson.
Thomas Francis.
Ward Locke.
Nathaniel Whittier.
Abijah Smith,
Ebenezer Bacon.
Jacob Davis,
Sanford Kingsbery.
Benjamin Abbot.
Ebenezer Eaton.
John S. Colbath.
Joel Wellington.
Rufus Burnham.
William Hilton.
Matthew Randall.
James Parker.
Daniel Stevens.*

HANCOCK.

*Alfred Johnson, junior.
Josiah Farrow.
Ignatius Haskell,
Asa Green.
Andrew Witham.
Peter Haynes.
George Henman.
Samuel Davis.
Benjamin Beverage.
Alexander Milliken,
Joshua Hall.
Samuel Little.
Abel W. Atherton.
William Abbot.
David Alden.
Nicholas Thomas, junior.*

Orland.
Ellsworth,
Lincolnville,
Belmont,
Brooks,
Jackson,
Searsmont,
Swanville,
Thorndike,
Monroe,
Knox,

Machias,
Steuben,
Harrington,
Eastport,
Jonesborough,
Calais,
Lubec,
Robbinston,
Cherryfield,
Perry,

Fryeburg,
Turner,

Hebron,
Buckfield,
PARIS,

Jay,
Livermore,

Bethel,
Waterford,
Norway,
Hartford,
Sumner,
Rumford,
Lovell,
Brownfield,
Albany,
Dixfield,
East-Andover,
Gilead,
Newry,
Denmark,
Porter,
Hiram,
Woodstock,
Greenwood,
Sweden,
Weld,
Mexico,

Horatio Mason.
Mark Shepard.
Samuel A. Whitney.
James Weymouth.
Samuel Whitney.
Bordman Johnson.
Ansel Lathrop.
Eleazer Nickerson.
Joseph Blethen.
Joseph Neally.
James Weed.

WASHINGTON.

John Dickinson.
Alexander Nichols.
James Campbell.
John Burgin.
Ephraim Whitney.
William Vance.
Lemuel Trescott.
Thomas Vose.
Joseph Adams.
Peter Golding.

OXFORD.

Judah Dana.
John Turner.
Philip Bradford.
Alexander Greenwood.
Enoch Hall.
James Hooper.
Benjamin Chandler.
Cornelius Holland.
Benjamin Bradford.
Thomas Chase, junior.
John Grover.
Josiah Shaw.
Aaron Wilkins.
Joseph Tobin.
Calvin Bisbee.
Peter C. Virgin.
Josiah Heald, 2d.
James Steele.
Asa Cummings.
Solomon Leland.
Sylvanus Poor.
Eliphaz Chapman.
Luke Reily.
Cyrus Ingalls.
William Towle.
Marshal Spring.
Cornelius Perkins.
Isaac Flint.
Samuel Nevers.
La Fayette Perkins.
Walter P. Carpenter.

SOMERSET.

*Canaan,
Fairfield,
NORRIDGEWOCK,
Starks,
Cornville,
Anson,
Strong,
Avon,
New-Vineyard,
Harmony,
Industry,
Athens,
Madison,
Embsden,
Palmyra,
Freeman,
New-Portland,
Solon,
Bingham,
Phillips,
St. Albans,
Kingfield,
Corinna,
Ripley,
Bloomfield,
Warsaw,*

Wentworth Tuttle.
William Kendall.
William Allen, junior.
James Waugh.
George Bixby.
James Collins.
James Mayhew.
Samuel Sprague.
William Talcott.
Robert Evans.
Ezekiel Hinkley.
Isaiah Door.
John Neal.
Andrew McFadden.
Samuel Lancey.
Jonathan Brown.
Henry Norton.
Elisha Coolidge.
Obed Wilson.
Joseph Dyer.
Benjamin French.
Joseph Knapp.
William Elder.
Jacob Hale.
Eleazer Coburn.
Stevens Kendall.

PENOBSCOT.

*Hampden,
Orrington,
BANGOR,
Orono,
Dixmont,
Brewer,
Eddington,
Carmel,
Corinth,
Exeter,
Garland,
New-Charleston,
Foxcroft,
Sebec,
Hermon,
Lexant,
Newport,
Sangerville,
Dexter,
Guilford,
Atkinson,
Newburgh,*

Simeon Stetson.
John Wilkins.
Joseph Treat.
Jackson Davis.
Samuel Butman.
George Leonard.
Luther Eaton.
Abel Ruggles.
Andrew Strong.
Nathaniel Atkins.
Amos Gordon.
Daniel Wilkins.
Samuel Chamberlain.
William R. Lowney.
William Patten.
Moses Hodsdon.
Benjamin Shaw.
Benjamin C. Goss.
Isaac Farrar.
Joseph Kelsey.
Eleazer W. Snow.
John Whitney.

Attest,

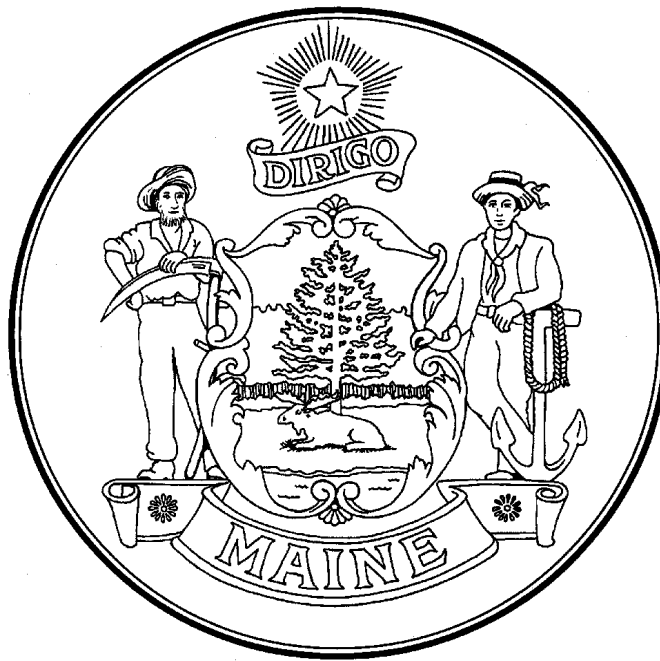
ROBERT C. VOSE, *Secretary.*

ADDENDUM 3

LEGISLATIVE RESOLUTIONS

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

TWENTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1847.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840,
and March 16, 1842.

Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1847.

RESOLVES

OF THE

STATE OF MAINE,

1847.

Chapter 43.**CHAP. 43.**

Resolve in favor of Benjamin D. Eastman and George A. Nourse.

Resolved, That the land agent is hereby authorized to convey by deed to Benjamin D. Eastman and George A. Nourse ten lots of settling land containing one hundred and sixty acres each, in township letter E, in the first range of townships from the east line of the state, when the same shall have been lotted by the land agent, *provided*, the said Eastman and Nourse, shall within two years from the passage of this resolve, erect and put in operation in said township a good saw mill, and a good grist mill with two run of stones, also, a shingle and clapboard machine, and perform the settling duties required by law.

In favor of Ben].
D. Eastman and
Geo. A. Nourse.

[*Approved July 31, 1847.*]

Chapter 44.

Resolve relating to the valuation of the towns of Dresden and Perkins.

Resolved, That the number of polls set to the valuation of Dresden in the county of Lincoln be two hundred and eighty-nine, and the value of estates be two hundred forty-one thousand six hundred and seventy-seven dollars, instead of the number and sum now fixed by law. And that the valuation of the town of Perkins, in said county, be sixteen polls and sixteen thousand and eighty-three dollars as estates, and that all taxes after the present year, shall be assessed accordingly.

Valuation of
Dresden.

—of Perkins.

[*Approved July 31, 1847.*]

Chapter 45.

Resolves providing for an amendment of the constitution in relation to the election of governor, senators and members of the house of representatives.

Resolved, Two thirds of both branches of the legislature concurring, that the constitution of this state shall be amended in the fifth section of the first part of the fourth article, by striking out the words, "a majority of all the" and inserting instead thereof, the words, "the highest number of," and by striking out the words "a majority" where they again occur in the same section and inserting instead thereof the words "the highest number;" also in the fourth

Amendment to
the constitution.
Art. 4, part 1, § 5.

Art. 4, part 2, § 4.

CHAP. 45.

section of the second part of the fourth article by striking out the words "a majority of the" and inserting instead thereof "the highest number of;" also in the fifth section of the second part of the fourth article by striking out the words "a majority," and inserting instead thereof, "the highest number;" also in the third section of the first part of the fifth article, by striking out the words "a majority of all the" and inserting instead thereof the words "the highest number of," and by striking out the words "a majority" where they again occur in the same section and inserting instead thereof the words "the highest number;" also in the first amendment to the constitution of this state, by striking out the words "a majority of all the," and inserting instead thereof the words "the highest number of."

First amendment
to the constitution.

Duty of city, town
and plantation
officers.

Resolved, That the aldermen of cities, the selectmen of the several towns, and the assessors of the several plantations in this state, are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations, in the manner prescribed by law, at the annual meeting in September next, to give in their votes upon the amendments proposed in the foregoing resolve;—and the question shall be, "shall the constitution be amended as proposed by a resolve of the legislature, providing, that the governor, senators and members of the house of representatives, shall be elected by the "highest number," instead of "a majority" of votes;—and the inhabitants of said cities, towns and plantations, shall vote by ballot on said questions of electing said officers separately; those in favor of said amendments respectively expressing it by the word "yes" upon their ballots, and those opposed to the amendments respectively expressing it by the word "no" upon their ballots; and the ballots shall be received, sorted, counted and declared, in open ward, town and plantation meetings, and lists shall be made out of the votes by the aldermen, selectmen and assessors, and clerks of the several cities, towns and plantations, and returned to the office of secretary of state, in the same manner as votes for senators, and the governor and council shall count the same and make return thereof to the next legislature, and if a majority of the votes are in favor of any of said amendments, the constitution shall be amended accordingly.

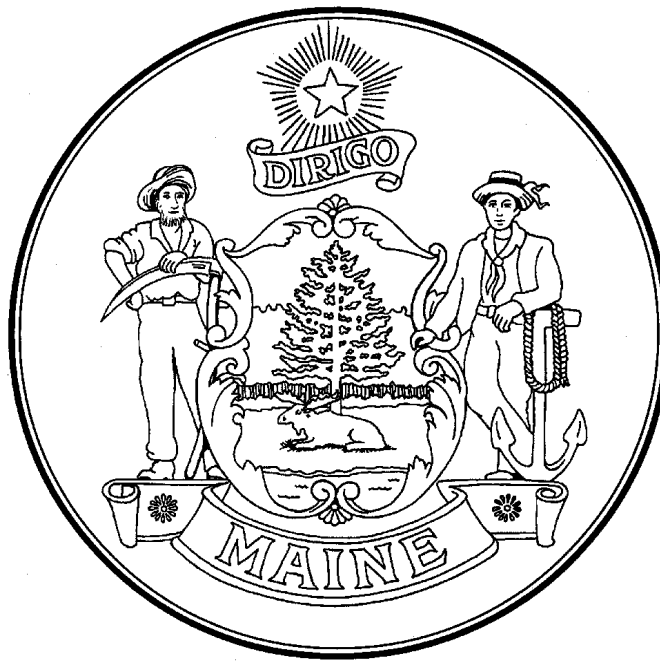
Duty of secretary
of state.

Resolved, That the secretary of state shall prepare and furnish the several cities, towns and plantations, blank returns in conformity to the foregoing resolves, accompanied with a copy thereof.

[Approved August 2, 1847.]

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE.

1875.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
February 28, 1840, and March 16, 1842.

AUGUSTA:

SPRAGUE, OWEN & NASH, PRINTERS TO THE STATE.

1875.

RESOLVES

OF THE

STATE OF MAINE.

1875.

CHAP. 98.

Chapter 98.

Resolves providing for certain amendments to the constitution of the State of Maine.

Resolved, Two-thirds of both houses of the legislature concurring, that the following be proposed as amendments to the constitution of the State of Maine, to wit :

Election of senators by plurality vote.

Senators, election of.

Senators shall be elected by a plurality of the votes given in by the qualified electors.

Sections four and five of article four, part second, of the constitution, are amended, by striking out the word "majority," wherever it occurs in said sections, and inserting instead thereof the word 'plurality.'

Relating to special legislation and corporations.

Amend article four, part third, of the constitution, by adding thereto the following sections :

Special legislation

'Section 13. The legislature shall, from time to time, provide, as far as practicable, by general laws, for all matters usually appertaining to special or private legislation.'

'Section 14. Corporations shall be formed under general laws, and shall not be created by special acts of the legislature, except for municipal purposes, and in cases where the objects of the corporation cannot otherwise be attained ; and, however formed, they shall forever be subject to the general laws of the state.'

Power of governor to pardon.

Power of governor to pardon.

Article five, part first, section eleven, shall be amended, by striking out of said section all after the word "reprieves," and by adding thereto the following : 'Commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. And he shall communicate to the legislature, at each session thereof, each case of reprieve, remission of penalty, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the reprieve, remission, commutation, or pardon, and the conditions, if any, upon which the same was granted.'

Appointment of judges of municipal and police courts.

The constitution shall be amended, by striking out section eight of article six, and inserting the following :

Judges of municipal and police courts, appointment of.

'Section 8. Judges of municipal and police courts shall be appointed by the executive power, in the same manner as other judicial officers, and shall hold their offices for the term of four years ; *provided however*, that the present incumbents shall hold their offices for the term for which they were elected.'

Taxation.

Section eight of article nine shall be amended, by inserting after the word "real," the words 'and personal,' so that the section as amended shall read as follows:

'Section 8. All taxes upon real and personal estate, assessed by authority of this state, shall be apportioned and assessed equally, according to the just value thereof.'

Taxation.

Said article shall be further amended, by adding the following:

'Section 9. The legislature shall never, in any manner suspend or surrender the power of taxation.'

Abolishing land agency.

Section ten of article nine, of the amendments, is hereby amended, by striking out the words "land agent and."

Land agency, to abolish.

Constitutional conventions.

Article four, part third, shall be amended by adding thereto section nine, as follows:

'The legislature shall, by a two-thirds concurrent vote of both branches, have the power to call constitutional conventions, for the purpose of amending this constitution.'

Constitutional conventions.

Bribery at elections.

The legislature may enact laws excluding from the right of suffrage, for a term not exceeding ten years, all persons convicted of bribery at any election, or of voting at any election, under the influence of a bribe.

Bribery at elections.

Codification of the amended constitution.

Article 10. Section six of article ten shall be amended, by striking out the same, and inserting instead thereof the following:

'Section 6. After the amendments proposed herewith shall have been submitted to popular vote, the chief justice of the supreme judicial court shall arrange the constitution, as amended, under appropriate titles, and in proper articles, parts and sections, omitting all sections, clauses, and words not in force, and making no other changes in the provisions or language thereof, and shall submit the same to the legislature at its next session. And the draft, and arrangement, when approved by the legislature, shall be enrolled on parchment and deposited in the office of the secretary of state; and printed copies thereof shall be prefixed to the books containing the laws of the state. And the constitution, with the amendments made thereto, in accordance with the provisions thereof, shall be the supreme law of the state.'

Amended constitution, codification of.

Section 7. Sections one, two and five, of article ten of the existing constitution, shall hereafter be omitted in any printed copies thereof prefixed to the laws of the state; but this shall not impair the validity of acts under those sections; and said section five shall remain in full force, as part of the constitution, accord-

Secs. 1, 2, 5, art. 10, to be omitted.

CHAP. 98.

Proposed amend-
ments to be sub-
mitted to a vote
of the people.

ing to the stipulations of said section, with the same effect as if contained in said printed copies.

Resolved, That the aldermen of the several cities, and selectmen of the several towns, and the assessors of the several plantations, in the state, are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations, in the manner prescribed by law, at the annual meeting in the month of September next, to give in their votes upon the questions whether the amendments proposed in the foregoing resolve, to the constitution of the state, shall be made; and the questions submitted to said inhabitants shall be as follows, to wit:

Form of questions

Shall the constitution of the State of Maine be amended, as proposed by resolves of the legislature, approved on the twenty-fourth day of February, in the year of our Lord one thousand eight hundred and seventy-five, to wit: (Here insert all the above named proposed amendments, *seriatim et verbatim*.)

Ballots, how
received.

Resolved, That the aldermen of the several cities, the selectmen of the several towns, and the assessors of the several plantations, in this state, at the general election to be held in this state on the second Monday of September next, shall provide, at each poll in the state, a separate box to receive the ballots of the electors in relation to said amendments; and each elector may present a ballot on which shall be printed or written, or partly printed and partly written, in the form following, namely: For all the propositions on this ballot which are not cancelled with ink or pencil, and against all which are so cancelled.

—form of.

For the proposed amendment in relation to

Election of senators by plurality vote.

For the proposed amendment relating to

Special legislation and corporations.

For the proposed amendment in relation to

Power of governor to pardon.

For the proposed amendment in relation to

Appointment of judges of municipal and police courts.

For the proposed amendment in relation to

Taxation.

For the proposed amendment in relation to

Abolishing land agency.

For the proposed amendment in relation to

Constitutional conventions.

For the proposed amendment in relation to

Bribery at elections.

For the proposed amendment in relation to

Codification of the amended constitution.

—how counted.

Each of said ballots shall be counted as a vote for each proposition thereon not cancelled with ink or pencil, and against each

proposition so cancelled. And the ballots shall be received, sorted, counted, declared and recorded in open ward, town and plantation meeting, and lists of the votes shall be made by the aldermen, selectmen, assessors and clerks of the several cities, towns, wards and plantations, and returned to the office of the secretary of state, in the same manner as votes for governor. And the governor and council shall count the same, and make return thereof to the next legislature, and if a majority of the votes are in favor of any of said amendments, such amendments shall be declared by proclamation of the governor to be adopted, and the constitution shall be so amended, to take effect on the first Wednesday of January, in the year of our Lord one thousand eight hundred and seventy-six.

Votes, return of.

—how counted and declared.

Amendments, when to take effect.

Resolved, That the secretary of state shall cause printed ballots to be prepared, in the form hereinbefore prescribed; and said ballots, and also proper blanks for the return of the votes, shall be furnished to the aldermen of the several cities, the selectmen of the several towns, and the assessors of the several plantations in this state, at the same time and in the same manner as blank returns for the votes for governor, and shall be kept at every poll during the time of voting, in sufficient quantities for the use of the electors; and one of said printed ballots shall be posted up with every warrant for calling the meeting for said general election, in every place where such warrant is required to be posted up.

Secretary of state to provide ballots and blanks.

Printed ballots to be posted with each warrant.

Resolved, That the secretary of state be directed to seasonably prepare and furnish to the municipal officers of the several cities, towns and plantations in the state, blank warrants, in due form, for the calling the next annual meeting in the month of September next, containing proper articles for the election of all officers required by law to be voted for, and also proper articles setting forth the proposed amendments to the constitution of the state, as named in the first resolve.

Secretary of state to provide blank warrants.

Resolved, That the secretary of state shall publish these resolves, in the same manner and at the same time that the public acts of the legislature are required to be published.

Resolves, publication of.

Approved February 24, 1875.

Chapter 99.

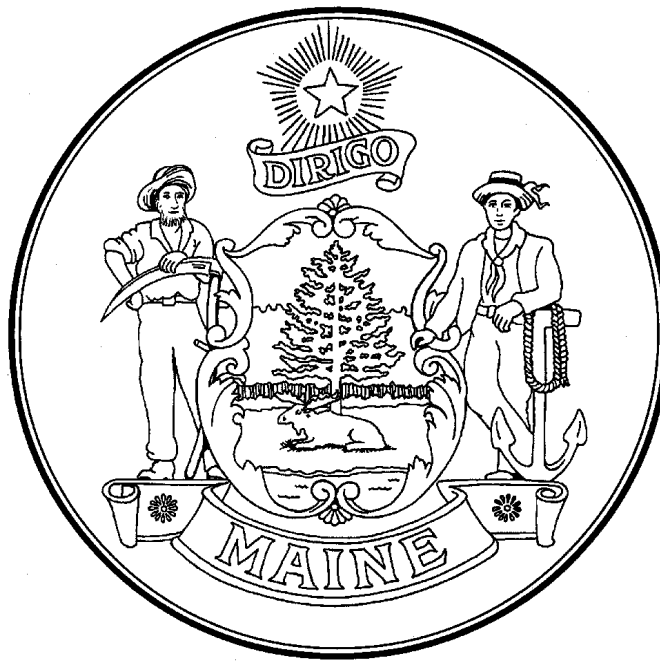
Resolve authorizing the state librarian to furnish the state college of agriculture and the mechanic arts with the Maine reports.

Resolved, That the state librarian is hereby authorized and directed to furnish the state college of agriculture and the

College of agriculture, to furnish with Me. reports.

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE.

1880.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
February 18, 1840, and March 16, 1842.

AUGUSTA:

SPRAGUE & SON, PRINTERS TO THE STATE.

1880.

1

RESOLVES

OF THE

STATE OF MAINE.

1880.

Chapter 158.

Resolve providing for a Seal of the State.

Resolved, That the secretary of state be, and is hereby directed to procure a suitable seal, which shall be of the same form and device as the seal last in use and acknowledged as the seal of the state, and that said seal, when so completed, be deposited in the office of the secretary of state, and that the same shall become and be the seal of the state.

State seal, providing for.

Approved January 22, 1880.

Chapter 159.

Resolves providing for an amendment of the Constitution, so as to elect the Governor by a Plurality, instead of a Majority, of Votes.

Resolved, Two-thirds of both branches of the Legislature concurring, that the constitution of this State shall be amended, in the third section of the first part of article five, by striking out the word "majority", wherever it occurs therein, and inserting in the place thereof the word 'plurality'; and a plurality of the votes cast and returned for Governor, at the annual September election for the year

Constitutional amendments, providing for.

Plurality substituted for majority.

CHAP. 160 eighteen hundred and eighty, shall determine the election of Governor for the years eighteen hundred and eighty-one and two.

Proposed amendment to be submitted to a vote of the people.

Resolved, That the aldermen of cities, selectmen of towns, and the assessors of plantations, in the state, are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations, in the manner prescribed by law, at the annual meeting in September next, to give in their votes upon the amendment proposed in the foregoing resolve; and the question shall be, "shall the constitution be amended so as to provide for the election of Governor by a plurality, instead of a majority." And the inhabitants of said cities, towns and plantations shall vote by ballot on said question, those in favor of said amendment voting "yes", and those opposed voting "no", upon their ballots; and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meeting; and fair lists of the votes shall be made out by the aldermen of cities, selectmen of towns, and assessors of plantations, and signed by them, and attested by the clerks, and returned to the office of the Secretary of State within thirty days after the election. And the Governor and Council shall open, examine and count the same immediately after the expiration of said thirty days; and if it shall appear that a majority of the votes cast and returned on the question is in favor of said amendment, it shall then be a part of the constitution, and the Governor shall make known the fact by his proclamation.

Ballots, form, how received and returned.

Lists, opened and examined.

Governor to make proclamation, if adopted.

Secretary of state to provide blanks.

Resolved, That the Secretary of State shall prepare and furnish to the several cities, towns and plantations, blank returns, in conformity with the foregoing resolves, accompanied by a copy thereof.

Approved January 27, 1880.

Chapter 160.

Resolve in reference to new State Seal.

New state seal adopted.

Resolved, That the new state seal, procured by the secretary of state, under authority of the joint resolution passed on the twentieth day of January, in the year of our Lord one